

**SOCIAL SECURITY INDEPENDENCE
AND PROGRAM IMPROVEMENTS ACT OF 1994**

**Volumes 1 - 2
H.R. 4277**

**PUBLIC LAW 103-296
103RD CONGRESS**

**REPORTS, BILLS,
DEBATES, AND ACT**

SOCIAL SECURITY ADMINISTRATION

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AND PROGRAM IMPROVEMENTS ACT OF 1994**

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Volume 2

**Social Security Administration
Office of the Deputy Commissioner for Policy and External Affairs
Office of Legislation and Congressional Affairs**

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passed the Senate, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees; further, that any statements relating thereto appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4277), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 4277) entitled "An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Social Security Administration Independence Act of 1994".

(b) *AMENDMENT OF SOCIAL SECURITY ACT*.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) *TABLE OF CONTENTS*.—The table of contents of this Act is as follows:

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TITLE I—ESTABLISHMENT OF NEW INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY.

Section 701 (42 U.S.C. 901) is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of

the Government, a Social Security Administration (hereafter in this title referred to as the 'Administration'). It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI."

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER OF SOCIAL SECURITY.

Section 702 (42 U.S.C. 902) is amended to read as follows:

"COMMISSIONER AND DEPUTY COMMISSIONER

"Commissioner of Social Security

"SEC. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security (hereafter in this title referred to as the 'Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

"(3) The Commissioner shall be appointed for a term of 4 years coincident with the term of the President, or until the appointment of a qualified successor.

"(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

"(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure—

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX shall be available to the public.

"Deputy Commissioner of Social Security

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (hereafter in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 4 years coincident with the term of the Commissioner, or until the appointment of a qualified successor.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commis-

SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 433, H.R. 4277, the Social Security Administration Reform Act; that all after the enacting clause be stricken and the text of S. 1560, as

sioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner."

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 (42 U.S.C. 903) is amended to read as follows:

"SOCIAL SECURITY ADVISORY BOARD

"Establishment of Board

"SEC. 703. (a) There shall be established a Social Security Advisory Board (hereinafter referred to as the 'Board').

"Functions of the Board

"(b) The Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include—

"(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

"(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

"(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

"(4) making recommendations to the President of candidates to consider in selecting nominees for the position of Commissioner and Deputy Commissioner;

"(5) reviewing and assessing the quality of service that the Administration provides to the public;

"(6) reviewing and making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

"(7) increasing public understanding of the social security system;

"(8) in consultation with the Commissioner, reviewing the development and implementation of a long-range research and program evaluation plan for the Administration;

"(9) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

"(10) conducting such other reviews and assessments that the Board determines to be appropriate.

"Structure and Membership of the Board

"(c) The Board shall be composed of 7 members who shall be appointed as follows:

"(1) 3 members shall be appointed by the President, with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

"(2) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

"(3) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

"Terms of Appointment

"(d) Each member of the Board shall serve for a term of 6 years, except that—

"(1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(2) the terms of service of the members initially appointed under this section shall expire as follows:

"(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

"(i) 2 years;

"(ii) 4 years; and

"(iii) 6 years.

"(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

"(i) 4 years; and

"(ii) 6 years.

"(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

"(i) 3 years; and

"(ii) 5 years.

"Chairman

"(e) A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

"Compensation

"(f) Members of the Board shall be compensated as follows:

"(1) Members shall be paid at a rate equal to 25 percent of the rate for level III of the Executive Schedule.

"(2) For days when the Board or any authorized subcommittee of the Board meets, members who attend meetings on such days (including travel time) shall receive additional compensation in an amount equal to the daily equivalent of the rate for level III of the Executive Schedule.

"(3) 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.

"(4) Service on the Board shall not be treated as Federal service or employment for purposes of receiving any benefits under chapters 83, 84, and 87 of title 5, United States Code.

"(5) A member of the Board may elect coverage of a health benefits plan under chapter 89 of title 5, United States Code. Such a member electing coverage shall have the applicable employee contributions under section 8906 of such title withheld from pay for service as a member of the Board. The Administration shall pay the applicable Government contributions under such section 8906 for such member. The Office of Personnel Management shall promulgate regulations to apply the provisions of chapter 89 of such title to Board members electing coverage as provided under this paragraph.

"Meetings

"(g) The Board shall meet not less than 6 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

"Federal Advisory Committee Act

"(h) The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"Personnel

"(i)(1) The Board shall, without regard to title 5, United States Code, appoint a Staff Director who shall be paid at a rate equivalent to a rate for the Senior Executive Service.

"(2) The Board is authorized, without regard to title 5, United States Code, to appoint and fix the compensation of such additional personnel as the Board determines to be necessary to carry out the functions of the Board.

"(3) In fixing the compensation of additional personnel under paragraph (2), the Board shall

not authorize that any individual appointed under such paragraph be compensated at a rate that is greater than the rate of compensation of the Staff Director described in paragraph (1).

"Authorization of Appropriation

"(j) There are authorized to be made available for expenditure, out of the Federal Disability Insurance Trust Fund, the Federal Old Age and Survivors Insurance Trust Fund, and the general fund in the Treasury, such sums as the Congress may deem appropriate to carry out the purposes of this section."

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

Section 704 is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE COMMISSIONER

"Personnel

"SEC. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(1). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

"(2) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

"(3) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to the Congress.

"Employment Restriction

"(c) The number of positions in the Administration which may be excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of such positions, may not exceed at any time the equivalent of 10 full-time positions.

"Seal of Office

"(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal."

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The

Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(b) **PERSONNEL, ASSETS, ETC.**—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) Any individual who is an employee of the Department and who was not employed on the date of the enactment of this title, in connection with functions transferred by this title to the Administration, but who was so employed on the day before the date established pursuant to section 107(a), may be transferred from the Department of Health and Human Services to the Social Security Administration by the Commissioner under subparagraph (A) of paragraph (1), after consultation with the Secretary of Health and Human Services, if the Commissioner determines such transfer to be appropriate.

(4) Any individual who is an employee of the Department and who was employed on the date of the enactment of this title, solely in connection with functions transferred by this title to the Administration, and who was so employed on the day before the date established pursuant to section 107(a), shall be transferred from the Department of Health and Human Services to the Social Security Administration.

(c) **ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—Effective upon the appointment of a Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this title)—

(1) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(2) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services."

SEC. 106. TRANSITIONAL RULES.

(a) **TRANSITION DIRECTOR.**—(1) Within 30 days after the date of the enactment of this Act, a transition director shall be appointed by the President, who shall be selected on the basis of experience and knowledge of the operation of the Government.

(2) The transition director shall conduct activities necessary to ensure the transition of the Social Security Administration to the status of an independent agency in the executive branch of the Government. In conducting such activities before the appointment of the Commissioner of Social Security, the transition director shall consult regularly with the Director of the Office of Management and Budget. Upon such appointment, the transition director shall conduct such activities at the direction of the Commissioner of Social Security.

(3) The transition director shall be compensated at the rate provided for level IV of the Executive Schedule.

(4) Expenditures to carry out the purposes of this subsection shall be made out of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

(b) INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.—

(1) **APPOINTMENT OF COMMISSIONER.**—Within 60 days of the date of the enactment of this title, the Commissioner of Social Security shall be appointed by the President pursuant to section 702 of the Social Security Act (as amended by this title). If the appointment is made pursuant to such section before the date established pursuant to section 107(a), the Commissioner of Social Security shall also perform the duties assigned to the Commissioner of Social Security in the Department of Health and Human Services.

(2) **OTHER APPOINTMENTS.**—At any time on or after the date of the enactment of this title any of the other officers provided for in sections 702 and 703 of the Social Security Act (as amended by this title) may be nominated and appointed, as provided in such sections.

(3) **COMPENSATION.**—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(c) **CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.**—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before the date established pursuant to section 107(a),

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(d) **CONTINUATION OF PROCEEDINGS.**—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before the date established pursuant to section 107(a), with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(e) **CONTINUATION OF SUITS.**—Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced before the date established pursuant to section 107(a); and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before the date established pursuant to section 107(a), the court may at any time, on the court's own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(f) **CONTINUATION OF PENALTIES.**—This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(g) **JUDICIAL REVIEW.**—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before the date established pursuant to section 107(a). Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(h) **EXERCISE OF FUNCTIONS.**—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

(i) **REPORT.**—Within 120 days of the date of the enactment of this title, the transition director and the Commissioner of Social Security shall report to the Congress on the status of the transition to an independent Social Security Administration, and on any significant internal restructuring or management improvements that are proposed to be undertaken.

SEC. 107. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in subsection (b), this title, and the amendments made by such title shall take effect on the earlier of—

(1) the date which is 180 days after the date of the enactment of this Act, or

(2) a date designated by the President.

(b) **TRANSITIONAL RULES.**—Section 106 shall take effect on the date of the enactment of this title.

TITLE II—CONFORMING AMENDMENTS

SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) **IN GENERAL.**—Title II (42 U.S.C. 401 et seq.) (other than section 201, section 219(d), section 231(c), section 225, and section 226(A) and title XVI (42 U.S.C. 1382 et seq.) (other than sections 1614(f)(2)(B) and 1616(e)(3)) are each amended—

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately

succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration";

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", "he", "her", and "she", and inserting (in the case of the word "Secretary") "Commissioner of Social Security", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", (in the case of the word "her") "the Commissioner" or "the Commissioner's", as may be appropriate, and (in the case of the words "she" or "he") "the Commissioner"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO SECTION 201.—(1)(A) Sections 201(a)(3), 201(a)(4), 201(b)(1), and 201(b)(2) (42 U.S.C. 401(a)(3), 401(a)(4), 401(b)(1), and 401(b)(2), respectively) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(B) Sections 201(a)(3) and 201(b)(1) (42 U.S.C. 401(a)(3) and 401(b)(1), respectively) are each amended by striking "such Secretary" and inserting "such Commissioner".

(2) Section 201(c) (42 U.S.C. 401(c)) is amended—

(A) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the Commissioner of Social Security, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio"; and

(B) in the fifth sentence, by striking "The Commissioner of Social Security" and inserting "The Deputy Commissioner of Social Security".

(3) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by him, the Commissioner of Social Security, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department" and inserting "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security and the Secretary of Health and Human Services", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph."

(4) Section 201(g)(1) (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Commissioner of Social Security shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary of Health and Human Services shall jointly certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to ensure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made."

(5) Section 201(g)(2) (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Commissioner of Social Security", and by striking "Secretary shall furnish" and inserting "Commissioner of Social Security shall furnish".

(6) Section 201(g)(4) (42 U.S.C. 401(g)(4)) is amended to read as follows:

"(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 for determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, such Boards may modify the method of determining such costs."

(7) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds."

(8) Subsections (j) and (k) of section 201 (42 U.S.C. 401) are each amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security".

(9) Section 201(l)(3)(B)(iii)(II) (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(10) Section 201(m)(3) (42 U.S.C. 401(m)(3)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(11) Section 201 (42 U.S.C. 401) is amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO SECTION 218.—Section 218(d) (42 U.S.C. 418(d)) is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Commissioner of Social Security".

(d) AMENDMENT TO SECTION 231.—Section 231(c) (42 U.S.C. 431(c)) is amended by striking "Secretary determines" and inserting "Commissioner of Social Security and the Secretary jointly determine".

SEC. 202. OTHER AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—(1) Title VII (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act."

(2) Section 706 (42 U.S.C. 907) is amended—

(A) in subsection (a), by striking "Advisory Council on Social Security" and all that follows through "disability insurance program and" and inserting "Advisory Council on Hospital and Supplementary Medical Insurance for the purpose of reviewing the status of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of";

(B) in subsection (d), by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(C) by striking the section heading and inserting the following:

"ADVISORY COUNCIL ON HOSPITAL AND SUPPLEMENTARY MEDICAL INSURANCE"

(3) Paragraph (2) of section 709(b) (42 U.S.C. 910(b)) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)".

(4) Sections 709 and 710 (42 U.S.C. 910 and 911) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO TITLE XI.—(1) Section 1101(a) (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise."

(2) Section 1106(a) (42 U.S.C. 1306(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

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

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department."

(3) Section 1106(b) (42 U.S.C. 1306(b)) is amended—

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) (42 U.S.C. 1306(c)) is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Commissioner of Social Security or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Commissioner or Secretary".

(5) Section 1107(b) (42 U.S.C. 1307(b)) is amended by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security or the Secretary".

(6) Section 1110 (42 U.S.C. 1310) is amended—

(A) in subsection (a)(2), by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(B) in subsection (b)—

(i) by striking "Secretary" each place it appears and inserting "Commissioner"; and

(ii) by striking "the Secretary's" each place it appears and inserting "the Commissioner's"; and

(C) by striking "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting "the Commissioner", "the Commissioner's", "the Commissioner", and "himself or herself", respectively.

(7) Subsections (b) and (c) of section 1127 (42 U.S.C. 1320a-6) are each amended by striking "Secretary" and inserting "Commissioner of Social Security".

(8) Section 1128(f) (42 U.S.C. 1320a-7(f)) is amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(9) Section 1131 (42 U.S.C. 1320b-1) is amended—

(A) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(B) in subsection (a)(1)(A), by adding "or" at the end;

(C) in subsection (a)(1)(B), by striking "or" at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) by striking "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting "the Commissioner of Social Security".

(10) Section 1155 (42 U.S.C. 1320c-4) is amended by striking "(to the same extent as is provided in section 205(b))" and all that follows and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection."

(11) Sections 1101, 1106, 1107, and 1137 (42 U.S.C. 1301, 1306, 1307, and 1320b-7, respectively) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO TITLE XVIII.—(1) Subsections (a) and (f) of section 1817 (42 U.S.C. 1395i) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 1840(a) (42 U.S.C. 1395s(a)) is amended—

(A) in paragraph (1), by striking "Secretary" and inserting "Commissioner of Social Security", and by adding at the end the following new sentence: "Such regulations shall be prescribed after consultation with the Secretary."; and

(B) in paragraph (2), by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(3) Section 1872 (42 U.S.C. 1395ii) is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(4) Section 1869(b)(1) (42 U.S.C. 1395ff(b)(1)) and the last sentence of section 1876(c)(5)(B) (42 U.S.C. 1395nm(c)(5)(B)) are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Sections 1817, 1862, and 1886 (42 U.S.C. 1395i, 1395y, and 1395ww, respectively) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(d) AMENDMENTS TO TITLE XIX.—(1) Section 1905(g)(2) (42 U.S.C. 1396d(g)(2)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(2) Section 1910(b)(2) (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(e) AMENDMENT TO TITLE XX.—Section 2002(a)(2)(B) (42 U.S.C. 1397a(a)(2)(B)) is amended by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(f) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5311 the following new item:

"Commissioner, Social Security Administration";

(2) by adding at the end of section 5313 the following new item:

"Deputy Commissioner, Social Security Administration"; and

(3) by striking "Secretary of Health Education, and Welfare" each place it appears in section 8141 and inserting "Commissioner of Social Security".

(g) AMENDMENTS TO FOOD STAMP ACT OF 1977.—(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting "the Commissioner of Social Security and" before "the Secretary of Health and Human Services".

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding "the Commissioner of Social Security" after "the Secretary".

(h) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707(e)(3) of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(i) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 (26 U.S.C. 1402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 3121(b)(10)(B) of such Code (26 U.S.C. 3121(b)(10)(B)) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 3127 of such Code (26 U.S.C. 3127) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(4) Section 6050F(c)(1)(A) of such Code (26 U.S.C. 6050F(c)(1)(A)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(5) Subsections (d) and (f) of section 6057 of such Code (26 U.S.C. 6057) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(6) Section 6103(l)(5) of such Code (26 U.S.C. 6103(l)(5)) is amended—

(A) by striking "Department of Health and Human Services" and inserting "Social Security Administration"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code (26 U.S.C. 6402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(8) Section 6511(d)(5) of such Code (26 U.S.C. 6511(d)(5)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(j) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—Section 3720A(f) of title 31, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears in and inserting "Commissioner of Social Security".

(k) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 5105 of title 38, United States Code, is amended—

(1) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(2) by striking the second sentence of subsection (b) and inserting the following new sen-

tence: "A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official."

(1) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking "and" at the end of subparagraph (U), and by adding at the end the following new subparagraph:

"(V) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(2) in section 11(1), by striking "or" after "Commission" and inserting a semicolon, and by inserting after "Board;" the following: "or the Commissioner of Social Security;"; and

(3) in section 11(2), by striking "or" after "Information Agency," and by inserting after "Veterans' Administration" the following: ", or the Social Security Administration;".

SEC. 203. RULES OF CONSTRUCTION.

(a) **REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) **REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.**—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) **REFERENCES TO OTHER OFFICERS AND EMPLOYEES.**—Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 204. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of this title shall take effect on the date established pursuant to section 107(a).

(b) **EXCEPTIONS.**—Subsections (f)(1), (f)(2), and (l) of section 202 shall take effect on the date of the enactment of this title.

TITLE III—SOCIAL SECURITY DISABILITY AND REHABILITATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Social Security Disability and Rehabilitation Act of 1994".

SEC. 302. REFORM OF MONTHLY INSURANCE BENEFITS BASED ON DISABILITY INVOLVING SUBSTANCE ABUSE.

(a) **SOCIAL SECURITY DISABILITY INSURANCE.**—
(1) **IN GENERAL.**—Section 223 of the Social Security Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

"Limitation on Payment of Benefits by Reason of Substance Abuse

"(j)(1)(A) Notwithstanding any other provision of this title, no individual whose disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic shall be entitled to benefits under this title based on such disability with respect to any month, unless such individual—

"(i) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(ii) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this paragraph.

"(C) The representative payee and the referral and monitoring agency for any individual described in subparagraph (A) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in subparagraph (A) and with the requirements imposed by the Secretary under subparagraph (B).

"(D)(i) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in subparagraph (A), or with the requirements imposed by the Secretary under subparagraph (B), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(ii) Any period of suspension under clause (i) shall be taken into account in determining any 24-month period described in subparagraph (E) and shall not be taken into account in determining the 35-month period described in such subparagraph.

"(E)(i) Except as provided in clause (ii), no individual described in subparagraph (A) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such subparagraph.

"(ii) If at the end of the 24-month period described in clause (i), the individual furnishes evidence in accordance with subsection (d)(5) that the individual continues to be under a disability based in whole or in part on a medical

determination that the individual is a drug addict or alcoholic, such individual shall continue to be entitled to benefits under this title based on such disability.

"(iii) Subject to clause (iv), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under clause (ii), clauses (i) and (ii) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(iv) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with subsection (d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(2)(A) Any benefits under this title payable to any individual referred to in paragraph (1), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 205(j).

"(B) For purposes of subparagraph (A) and section 205(j)(4), the term 'qualified organization'—

"(i) shall have the meaning given such term by section 205(j)(4)(B), and

"(ii) shall mean an agency or instrumentality of a State or a political subdivision of a State.

"(3) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such a disabled individual but for the provisions of paragraph (1), shall be payable as though such disabled individual were receiving such benefits which are not payable under this subsection."

(2) CONFORMING AMENDMENTS.—

(A) Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by inserting ", or in the case of any individual referred to in section 223(j)(1)(A)" after "thereby".

(B) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking "legally incompetent or under the age of 15" and inserting "legally incompetent, under the age of 15, or a drug addict or alcoholic referred to in section 223(j)(1)(A)".

(b) **SUPPLEMENTAL SECURITY INCOME.**—Paragraph (3) of section 1511(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended to read as follows:

"(3)(A)(i) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual's disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, unless such individual—

"(I) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(II) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under clause (ii).

"(ii) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who are a

condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in clause (i), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this subparagraph.

"(iii) The representative payee and the referral and monitoring agency for any individual described in clause (i) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in clause (i) and with the requirements imposed by the Secretary under clause (ii).

"(iv)(I) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in clause (i), or with the requirements imposed by the Secretary under clause (ii), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(II) Any period of suspension under subclause (I) shall be taken into account in determining any 24-month period described in clause (v) and shall not be taken into account in determining the 36-month period described in such clause.

"(v)(I) Except as provided in subclause (II), no individual described in clause (i) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such clause.

"(II) If at the end of the 24-month period described in subclause (I), the individual furnishes evidence in accordance with section 223(d)(5) that the individual continues to be under a disability based in whole on a medical determination that the individual is a drug addict or alcoholic, such individual shall be entitled to benefits under this title based on such disability for no more than an additional 36 months.

"(III) Subject to subclause (IV), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under subclause (II), subclauses (I) and (II) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(IV) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with section 223(d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(B)(i) Any benefits under this title payable to any individual referred to in subparagraph (A), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 1631(a)(2)(A)(ii).

"(ii) For purposes of clause (i) and section 1631(a)(2)(D), the term 'qualified organization'—

"(I) shall have the meaning given such term by section 1631(a)(2)(D)(ii), and

"(II) shall mean an agency or instrumentality of a State or a political subdivision of a State."

(C) EFFECTIVE DATES; AUTHORIZATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to benefits payable for determinations of disability made 90 or more days after the date of the enactment of this Act.

(2) CURRENT DETERMINATIONS.—

(A) IN GENERAL.—With respect to any individual described in subparagraph (B), the Secretary of Health and Human Services shall provide during the 3-year period beginning after the date of the enactment of this Act for the application of the amendments made by this section to such individual with the time periods described in such amendments to begin upon such application.

(B) INDIVIDUAL DESCRIBED.—An individual is described in this subparagraph if such individual is entitled to benefits under title II or XVI of the Social Security Act based on a disability determined before the date described in paragraph (1) to be based in whole or in part on a medical determination that the individual is a drug addict or alcoholic.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of the provisions of, and the amendments made by, this section.

SEC. 303. PRIORITY OF TREATMENT.

The Secretary of Health and Human Services, through the Administrator of the Substance Abuse and Mental Health Services Administration, shall assure that every individual receiving disability benefits under title II or XVI of the Social Security Act based in whole or in part on a medical determination that the individual is a drug addict or alcoholic be given high priority for treatment through entities supported by the various States through any substance abuse block grant authorized under law.

SEC. 304. ESTABLISHMENT OF REFERRAL MONITORING AGENCIES REQUIRED IN ALL STATES.

The Secretary of Health and Human Services shall, within 1 year of the date of the enactment of this Act, provide for the establishment of referral and monitoring agencies for each State for the purpose of carrying out the treatment requirements under sections 223(j)(1) and 1611(e)(3)(A) of the Social Security Act (42 U.S.C. 423(j)(1) and 1382(e)(3)(A)).

SEC. 305. PROCEEDS FROM CERTAIN CRIMINAL ACTIVITIES CONSTITUTE SUBSTANTIAL GAINFUL EMPLOYMENT.

(a) SOCIAL SECURITY DISABILITY INSURANCE.—Section 223(d)(4) of the Social Security Act (42 U.S.C. 423(d)(4)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(b) SUPPLEMENTAL SECURITY INCOME.—Section 1614(a)(3)(D) of the Social Security Act (42 U.S.C. 1382(a)(3)(D)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disability determinations conducted on or after the date of the enactment of this Act.

SEC. 306. CONSISTENT PENALTY PROVISIONS FOR SSDI AND SSI PROGRAMS.

(a) FELONY PENALTIES FOR FRAUD.—

(1) IN GENERAL.—Subsection (a) of section 1631 of the Social Security Act (42 U.S.C. 1383a) is amended by striking "shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both" and inserting "shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both".

(2) REPRESENTATIVE PAYEES.—

(A) SSDI.—Subsections (b) and (c) of section 208 of such Act (42 U.S.C. 408) are amended to read as follows:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse or an entity described in section 223(j)(2)(B)(ii)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).

"(c) For the purpose of subsection (a)(7), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers."

(B) SSI.—Subsection (b)(1) of section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "(other than such person's spouse)" and all that follows through the period and inserting "(other than such person's spouse or an entity described in section 1611(e)(3)(B)(ii)(II)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both."

(b) CIVIL ADMINISTRATIVE PENALTIES.—

(1) SSDI.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following new subsections:

"(e) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(f) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles V, XVI, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(2) SSI.—

(A) IN GENERAL.—Section 1632 of such Act (42 U.S.C. 1383a) is amended by adding at the end the following new subsections:

"(c) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(d) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles II, V, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(B) CONFORMING AMENDMENT.—The heading for section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "FOR FRAUD".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on or after the date of the enactment of this Act.

The PRESIDING OFFICER. The chair appoints Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAU, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

In the Senate of the United States,
May 23 (legislative day, May 16), 1994.

Resolved, That the bill from the House of Representatives (H.R. 4277) entitled "An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program", do pass with the following AMENDMENT:

=====

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENT OF SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Social Security Administration Independence Act of 1994".

(b) Amendment of Social Security Act.--Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) Table of Contents.--The table of contents of this Act is as follows:

Sec. 1. Short title; amendment of Social Security Act; table of contents.

TITLE I--ESTABLISHMENT OF NEW INDEPENDENT AGENCY

Sec. 101. Establishment of Social Security Administration as a separate, independent agency.

Sec. 102. Commissioner and Deputy Commissioner of Social Security.

Sec. 103. Social Security Advisory Board.

Sec. 104. Personnel; budgetary matters; seal of office.

Sec. 105. Transfers to the new Social Security Administration.

Sec. 106. Transitional rules.

Sec. 107. Effective dates.

TITLE II--CONFORMING AMENDMENTS

Sec. 201. Amendments to titles II and XVI of the Social Security Act.

Sec. 202. Other amendments.

Sec. 203. Rules of construction.

Sec. 204. Effective dates.

TITLE III--SOCIAL SECURITY DISABILITY AND REHABILITATION

Sec. 301. Short title.

Sec. 302. Reform of monthly insurance benefits based on disability involving substance abuse.

Sec. 303. Priority of treatment.

Sec. 304. Establishment of referral monitoring agencies required in all States.

Sec. 305. Proceeds from certain criminal activities constitute substantial gainful employment.

Sec. 306. Consistent penalty provisions for SSDI and SSI programs.

TITLE I--ESTABLISHMENT OF NEW INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY.

Section 701 (42 U.S.C. 901) is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"Sec. 701. There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (hereafter in this title referred to as the 'Administration'). It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI."

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER OF SOCIAL SECURITY.

Section 702 (42 U.S.C. 902) is amended to read as follows:

"COMMISSIONER AND DEPUTY COMMISSIONER

"Commissioner of Social Security

"Sec. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security (hereafter in this title referred to as the 'Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

"(3) The Commissioner shall be appointed for a term of 4 years coincident with the term of the President, or until the appointment of a qualified successor.

"(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

"(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure--

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX shall be available to the public.

"Deputy Commissioner of Social Security

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (hereafter in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 4 years coincident with the term of the Commissioner, or until the appointment of a qualified successor.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner."

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 (42 U.S.C. 903) is amended to read as follows:

"Social Security Advisory Board

"Establishment of Board

"Sec. 703. (a) There shall be established a Social Security Advisory Board (hereinafter referred to as the 'Board').

"Functions of the Board

"(b) The Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include--

"(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

"(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

"(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

"(4) making recommendations to the President of candidates to consider in selecting nominees for the position of Commissioner and Deputy Commissioner;

"(5) reviewing and assessing the quality of service that the Administration provides to the public;

"(6) reviewing and making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

"(7) increasing public understanding of the social security system;

"(8) in consultation with the Commissioner, reviewing the development and implementation of a long-range research and program evaluation plan for the Administration;

"(9) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

"(10) conducting such other reviews and assessments that the Board determines to be appropriate.

"Structure and Membership of the Board

"(c) The Board shall be composed of 7 members who shall be appointed as follows:

"(1) 3 members shall be appointed by the President, with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

"(2) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

"(3) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

"Terms of Appointment

"(d) Each member of the Board shall serve for a term of 6 years, except that--

"(1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(2) the terms of service of the members initially appointed under this section shall expire as follows:

"(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of--

"(i) 2 years;

"(ii) 4 years; and

"(iii) 6 years.

"(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of--

"(i) 4 years; and

"(ii) 6 years.

"(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of--

"(i) 3 years; and

"(ii) 5 years.

"Chairman

"(e) A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

"Compensation

"(f) Members of the Board shall be compensated as follows:

"(1) Members shall be paid at a rate equal to 25 percent of the rate for level III of the Executive Schedule.

"(2) For days when the Board or any authorized subcommittee of the Board meets, members who attend meetings on such days (including travel time) shall receive additional compensation in an amount equal to the daily equivalent of the rate for level III of the Executive Schedule.

"(3) 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.

"(4) Service on the Board shall not be treated as Federal service or employment for purposes of receiving any benefits under chapters 83, 84, and 87 of title 5, United States Code.

"(5) A member of the Board may elect coverage of a health benefits plan under chapter 89 of title 5, United States Code. Such a member electing coverage shall have the applicable employee contributions under section 8906 of such title withheld from pay for service as a member of the Board. The Administration shall pay the applicable Government contributions under such section 8906 for such member. The Office of Personnel Management shall promulgate regulations to apply the provisions of chapter 89 of such title to Board members electing coverage as provided under this paragraph.

"Meetings

"(g) The Board shall meet not less than 6 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

"Federal Advisory Committee Act

"(h) The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"Personnel

"(i)(1) The Board shall, without regard to title 5, United States Code, appoint a Staff Director who shall be paid at a rate equivalent to a rate for the Senior Executive Service.

"(2) The Board is authorized, without regard to title 5, United States Code, to appoint and fix the compensation of such additional personnel as the Board determines to be necessary to carry out the functions of the Board.

"(3) In fixing the compensation of additional personnel under paragraph (2), the Board shall not authorize that any individual appointed under such paragraph be compensated at a rate that is greater than the rate of compensation of the Staff Director described in paragraph (1).

"Authorization of Appropriation

"(j) There are authorized to be made available for expenditure, out of the Federal Disability Insurance Trust Fund, the Federal Old Age and Survivors Insurance Trust Fund, and the general fund in the Treasury, such sums as the Congress may deem appropriate to carry out the purposes of this section."

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

Section 704 is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE COMMISSIONER

"Personnel

"Sec. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(1). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

"(2) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

"(3) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to the Congress.

"Employment Restriction

"(c) The number of positions in the Administration which may be excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of such positions, may not exceed at any time the equivalent of 10 full-time positions.

"Seal of Office

"(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal."

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) Functions.--There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(b) Personnel, Assets, Etc.--(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration--

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) Any individual who is an employee of the Department and who was not employed on the date of the enactment of this title, in connection with functions transferred by this title to the Administration, but who was so employed on the day before the date established pursuant to section 107(a), may be transferred from the Department of Health and Human Services to the Social Security Administration by the Commissioner under subparagraph (A) of paragraph (1), after consultation with the Secretary of Health and Human Services, if the Commissioner determines such transfer to be appropriate.

(4) Any individual who is an employee of the Department and who was employed on the date of the enactment of this title, solely in connection with functions transferred by this title to the Administration, and who was so employed on the day before the date established pursuant to section 107(a), shall be transferred from the Department of Health and Human Services to the Social Security Administration.

(c) Abolishment of Office of Commissioner in the Department of Health and Human Services.--Effective upon the appointment of a Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this title)--

(1) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(2) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services."

SEC. 106. TRANSITIONAL RULES.

(a) Transition Director.--(1) Within 30 days after the date of the enactment of this Act, a transition director shall be appointed by the President, who shall be selected on the basis of experience and knowledge of the operation of the Government.

(2) The transition director shall conduct activities necessary to ensure the transition of the Social Security Administration to the status of an independent agency in the executive branch of the Government. In conducting such activities before the appointment of the Commissioner of Social Security, the transition director shall consult regularly with the Director of the Office of Management and Budget. Upon such appointment, the transition director shall conduct such activities at the direction of the Commissioner of Social Security.

(3) The transition director shall be compensated at the rate provided for level IV of the Executive Schedule.

(4) Expenditures to carry out the purposes of this subsection shall be made out of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

(b) Interim Authority for Appointment and Compensation.--

(1) Appointment of commissioner.--Within 60 days of the date of the enactment of this title, the Commissioner of Social Security shall be appointed by the President pursuant to section 702 of the Social Security Act (as amended by this title). If the appointment is made pursuant to such section before the date established pursuant to section 107(a), the Commissioner of Social Security shall also perform the duties assigned to the Commissioner of Social Security in the Department of Health and Human Services.

(2) Other appointments.--At any time on or after the date of the enactment of this title any of the other officers provided for in sections 702 and 703 of the Social Security Act (as amended by this title) may be nominated and appointed, as provided in such sections.

(3) Compensation.--Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(c) Continuation of Orders, Determinations, Rules, Regulations, Etc.--All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and

ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges--

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary's delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before the date established pursuant to section 107(a), shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(d) Continuation of Proceedings.--The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before the date established pursuant to section 107(a), with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(e) Continuation of Suits.--Except as provided in this subsection--

(1) the provisions of this title shall not affect suits commenced before the date established pursuant to section 107(a); and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before the date established pursuant to section 107(a), the court may at any time, on the court's own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(f) Continuation of Penalties.--This title shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby; and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(g) Judicial Review.--Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before the date established pursuant to section 107(a). Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(h) Exercise of Functions.--In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

(i) Report.--Within 120 days of the date of the enactment of this title, the transition director and the Commissioner of Social Security shall report to the Congress on the status of the transition to an independent Social Security Administration, and on any significant internal restructuring or management improvements that are proposed to be undertaken.

SEC. 107. EFFECTIVE DATES.

(a) In General.--Except as provided in subsection (b), this title, and the amendments made by such title shall take effect on the earlier of--

- (1) the date which is 180 days after the date of the enactment of this Act, or
- (2) a date designated by the President.

(b) Transitional Rules.--Section 106 shall take effect on the date of the enactment of this title.

TITLE II--CONFORMING AMENDMENTS

SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) In General.--Title II (42 U.S.C. 401 et seq.) (other than section 201, section 218(d), section 231(c), section 226, and section 226A) and title XVI (42 U.S.C. 1382 et seq.) (other than sections 1614(f)(2)(B) and 1616(e)(3)) are each amended--

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration";

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", "he", "her", and "she", and inserting (in the case of the word "Secretary") "Commissioner of Social Security", (in the case of the word "Secretary's") "Commissioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", (in the case of the word "her") "the Commissioner" or "the Commissioner's", as may be appropriate, and (in the case of the words "she" or "he") "the Commissioner"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) Amendments to Section 201.--(1)(A) Sections 201(a)(3), 201(a)(4), 201(b)(1), and 201(b)(2) (42 U.S.C. 401(a)(3), 401(a)(4), 401(b)(1), and 401(b)(2), respectively) are each amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(B) Sections 201(a)(3) and 201(b)(1) (42 U.S.C. 401(a)(3) and 401(b)(1), respectively) are each amended by striking "such Secretary" and inserting "such Commissioner".

(2) Section 201(c) (42 U.S.C. 401(c)) is amended--

(A) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the Commissioner of

Social Security, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio"; and

(B) in the fifth sentence, by striking "The Commissioner of Social Security" and inserting "The Deputy Commissioner of Social Security".

(3) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended--

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by him, the Commissioner of Social Security, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department" and inserting "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security and the Secretary of Health and Human Services", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph."

(4) Section 201(g)(1) (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year--

"(i) the Commissioner of Social Security shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the

portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary of Health and Human Services shall jointly certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other of such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund in the Treasury, in order to ensure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Commissioner of Social Security is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made."

(5) Section 201(g)(2) (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Commissioner of Social Security", and by striking "Secretary shall furnish" and inserting "Commissioner of Social Security shall furnish".

(6) Section 201(g)(4) (42 U.S.C. 401(g)(4)) is amended to read as follows:

"(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Administration Independence Act of 1994 for determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of

Trustees of such Trust Funds consider such action advisable, such Boards may modify the method of determining such costs."

(7) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds."

(8) Subsections (j) and (k) of section 201 (42 U.S.C. 401) are each amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security".

(9) Section 201(l)(3)(B)(iii)(II) (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(10) Section 201(m)(3) (42 U.S.C. 401(m)(3)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(11) Section 201 (42 U.S.C. 401) is amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) Amendments to Section 218.--Section 218(d) (42 U.S.C. 418(d)) is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Commissioner of Social Security".

(d) Amendment to Section 231.--Section 231(c) (42 U.S.C. 431(c)) is amended by striking "Secretary determines" and inserting "Commissioner of Social Security and the Secretary jointly determine".

SEC. 202. OTHER AMENDMENTS.

(a) Amendments to Title VII.--(1) Title VII (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"Sec. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act."

(2) Section 706 (42 U.S.C. 907) is amended--

(A) in subsection (a), by striking "Advisory Council on Social Security" and all that follows through "disability insurance program and" and inserting "Advisory Council on Hospital and Supplementary Medical Insurance for the purpose of reviewing the status of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in relation to the long-term commitments of";

(B) in subsection (d), by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(C) by striking the section heading and inserting the following:

"ADVISORY COUNCIL ON HOSPITAL AND SUPPLEMENTARY MEDICAL INSURANCE".

(3) Paragraph (2) of section 709(b) (42 U.S.C. 910(b)) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)".

(4) Sections 709 and 710 (42 U.S.C. 910 and 911) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(b) Amendments to Title XI.--(1) Section 1101(a) (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise."

(2) Section 1106(a) (42 U.S.C. 1306(a)) is amended--

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

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

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means--

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department."

(3) Section 1106(b) (42 U.S.C. 1306(b)) is amended--

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) (42 U.S.C. 1306(c)) is amended--

(A) by striking "the Secretary" the first place it appears and inserting "the Commissioner of Social Security or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Commissioner or Secretary".

(5) Section 1107(b) (42 U.S.C. 1307(b)) is amended by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security or the Secretary".

(6) Section 1110 (42 U.S.C. 1310) is amended--

(A) in subsection (a)(2), by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(B) in subsection (b)--

(i) by striking "Secretary" each place it appears and inserting "Commissioner", and

(ii) by striking "the Secretary's" each place it appears and inserting "the Commissioner's"; and

(C) by striking "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting "the Commissioner", "the Commissioner's", "the Commissioner", and "himself or herself", respectively.

(7) Subsections (b) and (c) of section 1127 (42 U.S.C. 1320a-6) are each amended by striking "Secretary" and inserting "Commissioner of Social Security".

(8) Section 1128(f) (42 U.S.C. 1320a-7(f)) is amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(9) Section 1131 (42 U.S.C. 1320b-1) is amended--

(A) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(B) in subsection (a)(1)(A), by adding "or" at the end;

(C) in subsection (a)(1)(B), by striking "or" at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) by striking "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting "the Commissioner of Social Security".

(10) Section 1155 (42 U.S.C. 1320c-4) is amended by striking "(to the same extent as is provided in section 205(b))" and all that follows and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection."

(11) Sections 1101, 1106, 1107, and 1137 (42 U.S.C. 1301, 1306, 1307, and 1320b-7, respectively) are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) Amendments to Title XVIII.--(1) Subsections (a) and (f) of section 1817 (42 U.S.C. 1395i) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 1840(a) (42 U.S.C. 1395s(a)) is amended--

(A) in paragraph (1), by striking "Secretary" and inserting "Commissioner of Social Security", and by adding at the end the following new sentence: "Such regulations shall be prescribed after consultation with the Secretary."; and

(B) in paragraph (2), by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(3) Section 1872 (42 U.S.C. 1395ii) is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(4) Section 1869(b)(1) (42 U.S.C. 1395ff(b)(1)) and the last sentence of section 1876(c)(5)(B) (42 U.S.C. 1395mm(c)(5)(B)) are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference

therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(5) Sections 1817, 1862, and 1886 (42 U.S.C. 1395i, 1395y, and 1395ww, respectively) are amended by striking “Internal Revenue Code of 1954” each place it appears and inserting “Internal Revenue Code of 1986”.

(d) Amendments to Title XIX.--(1) Section 1905(q)(2) (42 U.S.C. 1396d(q)(2)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(2) Section 1910(b)(2) (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after “section 205(g)” the following: “, except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(e) Amendment to Title XX.--Section 2002(a)(2)(B) (42 U.S.C. 1397a(a)(2)(B)) is amended by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”.

(f) Amendments to Title 5, United States Code.--Title 5, United States Code, is amended--

(1) by adding at the end of section 5311 the following new item:

“Commissioner, Social Security Administration.”;

(2) by adding at the end of section 5313 the following new item:

“Deputy Commissioner, Social Security Administration.”; and

(3) by striking “Secretary of Health Education, and Welfare” each place it appears in section 8141 and inserting “Commissioner of Social Security”.

(g) Amendments to Food Stamp Act of 1977.--(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting “the Commissioner of Social Security and” before “the Secretary of Health and Human Services”.

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding ", the Commissioner of Social Security" after "the Secretary".

(h) Amendment to Title 14, United States Code.--Section 707(e)(3) of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(i) Amendments to Internal Revenue Code of 1986.--(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 (26 U.S.C. 1402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(2) Section 3121(b)(10)(B) of such Code (26 U.S.C. 3121(b)(10)(B)) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(3) Section 3127 of such Code (26 U.S.C. 3127) is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(4) Section 6050F(c)(1)(A) of such Code (26 U.S.C. 6050F(c)(1)(A)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(5) Subsections (d) and (f) of section 6057 of such Code (26 U.S.C. 6057) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(6) Section 6103(l)(5) of such Code (26 U.S.C. 6103(l)(5)) is amended--

(A) by striking "Department of Health and Human Services" and inserting "Social Security Administration"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code (26 U.S.C. 6402) are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(8) Section 6511(d)(5) of such Code (26 U.S.C. 6511(d)(5)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(j) Amendments to Title 31, United States Code.--Section 3720A(f) of title 31, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears in and inserting "Commissioner of Social Security".

(k) Amendments to Title 38, United States Code.--Section 5105 of title 38, United States Code, is amended--

(1) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security"; and

(2) by striking the second sentence of subsection (b) and inserting the following new sentence: "A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official."

(l) Amendments to Inspector General Act of 1978.--The Inspector General Act of 1978 (5 U.S.C. App.) is amended--

(1) in section 9(a)(1), by striking "and" at the end of subparagraph (U), and by adding at the end the following new subparagraph:

"(V) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(2) in section 11(1), by striking "or" after "Commission" and inserting a semicolon, and by inserting after "Board;" the following: "or the Commissioner of Social Security;"; and

(3) in section 11(2), by striking "or" after "Information Agency.", and by inserting after "Veterans' Administration" the following: ", or the Social Security Administration,".

SEC. 203. RULES OF CONSTRUCTION.

(a) References to the Department of Health and Human Services.--Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) References to the Secretary of Health and Human Services.--Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) References to Other Officers and Employees.--Whenever any reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 204. EFFECTIVE DATES.

(a) In General.--Except as provided in subsection (b), the provisions of this title shall take effect on the date established pursuant to section 107(a).

(b) Exceptions.--Subsections (f)(1), (f)(2), and (l) of section 202 shall take effect on the date of the enactment of this title.

TITLE III--SOCIAL SECURITY DISABILITY AND REHABILITATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Social Security Disability and Rehabilitation Act of 1994".

SEC. 302. REFORM OF MONTHLY INSURANCE BENEFITS BASED ON DISABILITY INVOLVING SUBSTANCE ABUSE.

(a) Social Security Disability Insurance.--

(1) In general.--Section 223 of the Social Security Act (42 U.S.C. 423) is amended by adding at the end the following new subsection:

"Limitation on Payment of Benefits by Reason of Substance Abuse

"(j)(1)(A) Notwithstanding any other provision of this title, no individual whose disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic shall be entitled to benefits under this title based on such disability with respect to any month, unless such individual--

"(i) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(ii) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under subparagraph (B).

"(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this paragraph.

"(C) The representative payee and the referral and monitoring agency for any individual described in subparagraph (A) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in subparagraph (A) and with the requirements imposed by the Secretary under subparagraph (B).

"(D)(i) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in subparagraph (A), or with the

requirements imposed by the Secretary under subparagraph (B), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(ii) Any period of suspension under clause (i) shall be taken into account in determining any 24-month period described in subparagraph (E) and shall not be taken into account in determining the 36-month period described in such subparagraph.

"(E)(i) Except as provided in clause (ii), no individual described in subparagraph (A) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such subparagraph.

"(ii) If at the end of the 24-month period described in clause (i), the individual furnishes evidence in accordance with subsection (d)(5) that the individual continues to be under a disability based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, such individual shall continue to be entitled to benefits under this title based on such disability.

"(iii) Subject to clause (iv), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under clause (ii), clauses (i) and (ii) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(iv) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with subsection (d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(2)(A) Any benefits under this title payable to any individual referred to in paragraph (1), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 205(j).

"(B) For purposes of subparagraph (A) and section 205(j)(4), the term 'qualified organization' --

"(i) shall have the meaning given such term by section 205(j)(4)(B),
and

"(ii) shall mean an agency or instrumentality of a State or a political subdivision of a State.

"(3) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such a disabled individual but for the provisions of paragraph (1), shall be payable as though such disabled individual were receiving such benefits which are not payable under this subsection."

(2) Conforming amendments.--

(A) Section 205(j)(1) of such Act (42 U.S.C. 405(j)(1)) is amended by inserting ", or in the case of any individual referred to in section 223(j)(1)(A)" after "thereby".

(B) Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by striking "legally incompetent or under the age of 15" and inserting "legally incompetent, under the age of 15, or a drug addict or alcoholic referred to in section 223(j)(1)(A)".

(b) Supplemental Security Income.--Paragraph (3) of section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended to read as follows:

"(3)(A)(i) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if such individual's disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, unless such individual--

"(I) is undergoing, or on a waiting list for, any medical or psychological treatment that may be appropriate for such individual's condition as a drug addict or alcoholic (as the case may be) and for the stage of such individual's rehabilitation at an institution or facility approved for purposes of this paragraph by the Secretary (so long as access to such treatment is reasonably available, as determined by the Secretary), and

"(II) demonstrates in such manner as the Secretary requires, including at a continuing disability review not later than one year after such determination, that such individual is complying with the terms, conditions, and requirements of such treatment and with the requirements imposed by the Secretary under clause (ii).

"(ii) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in clause (i), in order to assure such compliance and to determine the extent to which the imposition of such requirements is contributing to the achievement of the purposes of this title. The Secretary may retain jurisdiction in the case of a hearing before the Secretary under this title to the extent the Secretary determines necessary to carry out

the preceding sentence. The Secretary shall annually submit to the Congress a full and complete report on the Secretary's activities under this subparagraph.

"(iii) The representative payee and the referral and monitoring agency for any individual described in clause (i) shall report to the Secretary any noncompliance with the terms, conditions, and requirements of the treatment described in clause (i) and with the requirements imposed by the Secretary under clause (ii).

"(iv)(1) If the Secretary finds that an individual is not complying with the terms, conditions, and requirements of the treatment described in clause (i), or with the requirements imposed by the Secretary under clause (ii), or both, the Secretary, in lieu of termination, may suspend such individual's benefits under this title until compliance has been reestablished, including compliance with any additional requirements determined to be necessary by the Secretary.

"(11) Any period of suspension under subclause (1) shall be taken into account in determining any 24-month period described in clause (v) and shall not be taken into account in determining the 36-month period described in such clause.

"(v)(1) Except as provided in subclause (11), no individual described in clause (i) shall be entitled to benefits under this title for any month following the 24-month period beginning with the determination of the disability described in such clause.

"(11) If at the end of the 24-month period described in subclause (1), the individual furnishes evidence in accordance with section 223(d)(5) that the individual continues to be under a disability based in whole on a medical determination that the individual is a drug addict or alcoholic, such individual shall be entitled to benefits under this title based on such disability for no more than an additional 36 months.

"(111) Subject to subclause (IV), if such an individual continues to be entitled to such benefits for an additional 24-month period following a determination under subclause (11), subclauses (1) and (11) shall apply with regard to any further entitlement to such benefits following the end of such additional period.

"(IV) In no event shall such an individual be entitled to benefits under this title for more than a total of 36 months, unless upon the termination of the 36th month such individual furnishes evidence in accordance with section 223(d)(5) that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

"(B)(i) Any benefits under this title payable to any individual referred to in subparagraph (A), including any benefits payable in a lump sum amount, shall be payable only pursuant to a certification of such payment to a qualified organization acting as a representative payee of such individual pursuant to section 1631(a)(2)(A)(ii).

"(ii) For purposes of clause (i) and section 1631(a)(2)(D), the term 'qualified organization'--

"(I) shall have the meaning given such term by section 1631(a)(2)(D)(ii), and

"(II) shall mean an agency or instrumentality of a State or a political subdivision of a State."

(c) Effective Dates; Authorizations.--

(1) In general.--Except as provided in paragraph (2), the amendments made by this section shall apply to benefits payable for determinations of disability made 90 or more days after the date of the enactment of this Act.

(2) Current determinations.--

(A) In general.--With respect to any individual described in subparagraph (B), the Secretary of Health and Human Services shall provide during the 3-year period beginning after the date of the enactment of this Act for the application of the amendments made by this section to such individual with the time periods described in such amendments to begin upon such application.

(B) Individual described.--An individual is described in this subparagraph if such individual is entitled to benefits under title II or XVI of the Social Security Act based on a disability determined before the date described in paragraph (1) to be based in whole or in part on a medical determination that the individual is a drug addict or alcoholic.

(3) Authorization of appropriations.--There are authorized to be appropriated such sums as may be necessary to carry out the purposes of the provisions of, and the amendments made by, this section.

SEC. 303. PRIORITY OF TREATMENT.

The Secretary of Health and Human Services, through the Administrator of the Substance Abuse and Mental Health Services Administration, shall assure that every individual receiving disability benefits under title II or XVI of the Social Security Act based in whole or in part on a medical determination that the individual is a drug addict or alcoholic be given high priority for treatment through entities supported by the various States through any substance abuse block grant authorized under law.

SEC. 304. ESTABLISHMENT OF REFERRAL MONITORING AGENCIES REQUIRED IN ALL STATES.

The Secretary of Health and Human Services shall, within 1 year of the date of the enactment of this Act, provide for the establishment of referral and monitoring agencies for each State for the purpose of carrying out the treatment requirements under sections 223(j)(1) and 1611(e)(3)(A) of the Social Security Act (42 U.S.C. 423(j)(1) and 1382(e)(3)(A)).

SEC. 305. PROCEEDS FROM CERTAIN CRIMINAL ACTIVITIES CONSTITUTE SUBSTANTIAL GAINFUL EMPLOYMENT.

(a) Social Security Disability Insurance.--Section 223(d)(4) of the Social Security Act (42 U.S.C. 423(d)(4)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(b) Supplemental Security Income.--Section 1614(a)(3)(D) of the Social Security Act (42 U.S.C. 1382(a)(3)(D)) is amended by inserting the following after the first sentence: "If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity."

(c) Effective Date.--The amendments made by this section shall apply to disability determinations conducted on or after the date of the enactment of this Act.

SEC. 306. CONSISTENT PENALTY PROVISIONS FOR SSDI AND SSI PROGRAMS.

(a) Felony Penalties for Fraud.--

(1) In general.--Subsection (a) of section 1631 of the Social Security Act (42 U.S.C. 1383a) is amended by striking "shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both" and inserting "shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both".

(2) Representative payees.--

(A) Ssdi.--Subsections (b) and (c) of section 208 of such Act (42 U.S.C. 408) are amended to read as follows:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role

as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse or an entity described in section 223(j)(2)(B)(ii)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j).

"(c) For the purpose of subsection (a)(7), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers."

(B) SSI.--Subsection (b)(1) of section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "(other than such person's spouse)" and all that follows through the period and inserting "(other than such person's spouse or an entity described in section 1611(e)(3)(B)(ii)(II)), shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both."

(b) Civil Administrative Penalties.--

(1) SSDI.--Section 208 of the Social Security Act (42 U.S.C. 408) is amended by adding at the end the following new subsections:

"(e) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(f) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles V, XVI, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(2) SSI.--

(A) In general.--Section 1632 of such Act (42 U.S.C. 1383a) is amended by adding at the end the following new subsections:

"(c) For administrative penalties for false claims and statements with respect to which an individual or other entity knows or has reason to know such falsity, see chapter 38 of title 31, United States Code.

"(d) In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under this section, the Secretary may exclude such person or entity from participation in any program under this title and titles II, V, XVIII, and XX, and may direct that such person or entity be excluded from any State health care program (as defined in section 1128(h)) and any other Federal program as provided by law."

(B) Conforming amendment.--The heading for section 1632 of such Act (42 U.S.C. 1383a) is amended by striking "for fraud".

(c) Effective Date.--The amendments made by this section shall be effective on or after the date of the enactment of this Act.

Attest:

Secretary.

The PRESIDING OFFICER. The chair appoints Mr. MOYNIHAN, Mr. BAUCUS, Mr. BREAUX, Mr. PACKWOOD, and Mr. DOLE conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON
H.R. 4277, SOCIAL SECURITY AD-
MINISTRATIVE REFORM ACT OF
1994

Mr. JACOBS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the Old-Age, Survivors, and Disability Insurance Program, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

NOTION TO INSTRUCT CONFEREES OFFERED BY
MR. SANTORUM

Mr. SANTORUM. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SANTORUM moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4277 be instructed to insist upon section 231 of the House bill.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. SANTORUM] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. JACOBS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SANTORUM].

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

Mr. Speaker, I rise to offer this motion to instruct on a provision that is agreed to that was formulated in the committee by the gentleman from

Texas [Mr. PICKLE] and myself as a result of hearings that were held in the Oversight Subcommittee.

Mr. Speaker, I want to commend the work done by the Oversight Subcommittee in ferreting out what was another example of how fraud-ridden the SSI program is and how much work needs to be done to deal with, I believe, the most fraud-ridden program in the Federal Government.

Mr. PICKLE and the gentleman from New York [Mr. HOUGHTON] held a hearing, I believe, in February of this year which exposed a scandal in California, or reported the scandal here to Washington, having to do with third-party translators, people who were translators for individuals who were seeking disability benefits.

These translators were Vietnamese in this case who were going out on the street, recruiting people to come in and claim disabilities when, in fact, they were not disabled. They went in and set up a clinic with a doctor who was willing to cooperate in this fraud, got certificates that these people were, in fact, disabled, six-page reports that were done with a 2-minute examination, witnessed by undercover cameras.

They went to the disability office, and the disability office and the officer did not have a translator available from the disability office, so they used this recruiter as the translator who promptly answered all the questions, and the person receiving the disability or applying had no knowledge of even what the discussion was that was taking place.

This was a terrible situation that was exposed by MediCal and brought to this subcommittee, and this legislation is an attempt by the subcommittee to quickly respond to this problem.

I want to commend the chairman of that subcommittee, the gentleman from Texas [Mr. PICKLE], for doing an outstanding job in doing so, and we have attacked a couple of very specific areas in this proposal that was inserted in the bill in committee.

Let me review a couple of what I think the most important ones are: No. 1, what we found in this case was, even though this fraud was perpetrated and 14 people were indicted by California in this fraud case, there were 2,000 people, 2,000 people who started to receive benefits in 1993, 39 million dollars' worth of benefits as of February when we had this hearing were involved in the fraud, and yet the Social Security Administration failed to do one redetermination, failed to do one redetermination on any one of these 2,000 people who were involved in this fraud case.

We subsequently, through the work of the subcommittee, convinced Social Security that redeterminations should be done when people who are put on SSI are suspected to be on there fraudulently. You would think that that would be an obvious case, but it, in fact, took the work of the subcommittee to get them to do it.

Now we are going to put in statute that anytime you have a suspicious of fraud of someone who gets on the SSI rolls, that we will have an immediate redetermination by the Social Security Administration.

Second, another almost amazing consequence of this investigation: We found that MediCal was doing this investigation and had done an extensive job and had the names of all the people who were implicated in this fraudulent scheme, and when we asked the Social Security Administration why they had not been trying to get redeterminations, their response was, well, we do not have the names of these people and the Social Security numbers and, therefore, we cannot get them. We asked the question: "Well, did you bother to ask for the names?" And the person from MediCal in the back stood up and said, "No. They never bothered to ask."

So what we do in this law is require the inspector general, who cooperated with MediCal in this case, to turn over the names of the people suspected of fraud to the Social Security Administration so the Social Security Administration does not have an excuse not to investigate people who are conducting fraud.

But this is the kind, unfortunately, of detail that we have to deal with here in the Congress because we have a Social Security Administration that is not willing to pursue fraudulent claims as vigorously as I think the public demands.

Again, I want to compliment the gentleman from Texas [Mr. PICKLE] and the gentleman from New York [Mr. HOUGHTON] for the outstanding work done on the Oversight Subcommittee in coming up with this investigation.

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

Mr. JACOBS. Mr. Speaker, first of all, we accept the motion to instruct. It makes eminently good sense.

Mr. Speaker, I yield 4 minutes and 33 seconds, to the gentleman from Texas [Mr. PICKLE].

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

Mr. PICKLE. Mr. Speaker, on May 5 of this year, the Oversight Subcommittee of Ways and Means, which I chair, issued a bipartisan report on reform to address the supplemental security income fraud and abuse that has been taking place.

We held our meeting in conjunction with the Subcommittee on Human Resources chaired by the gentleman from Tennessee [Mr. FORD], and we passed a resolution that would, we thought, correct. We did find that there potentially were many fraud cases and abuse cases going on in this area.

To address the problem, I offered an amendment in behalf of the gentleman from Tennessee [Mr. FORD], the gentleman from New York [Mr. HOUGHTON], and the gentleman from Pennsylvania [Mr. SANTORUM], which was

unanimously adopted by the full committee.

In order to have us have a clear view of it, let me list three things it does. No. 1, it ensures accurate translation of the interviews conducted by SSA officials during the SSI application process. We just want to be sure the translators are giving us a true, accurate, and certifiable translation.

Second, we established a streamlined procedure enabling the SSA, the Social Security Administration, to expeditiously terminate fraudulently obtained SSI benefits. I can advise the House the Social Security is actually under way now in trying to go back and find those old cases and see if they can file suit against those people getting SSI benefits fraudulently. So that process is under way.

And, third, we increased both civil and criminal sanctions available to SSA in SSI fraud cases.

So as the chairman said, I support this amendment that the gentleman from Pennsylvania has offered, and I will assure him that I will work diligently to see this agreement is kept in the conference agreement.

Mr. SANTORUM. Madam Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], the ranking member of the Subcommittee on Oversight.

□ 1600

Mr. HOUGHTON. Madam Speaker, I thank the chairman, the gentleman from Texas [Mr. PICKLE], who has done a wonderful job and is a very fair chairman, bipartisan chairman, and we need more of that in this day and age.

Madam Speaker, I rise to support the motion. I think it is important. There is a particular section I would like to talk about. But the reason it is important is because I do not think the Senate has dealt sufficiently with the fraud issue. Therefore, in order to have this be an important element in the conference, we ought to take this thing up and we ought to support the gentleman from Pennsylvania [Mr. SANTORUM] and the gentleman from Texas [Mr. PICKLE].

Madam Speaker, section 231 of the House contains the bipartisan in what they have said.

Madam Speaker, section 231 of the House contains the bipartisan fraud amendment. What it does is it requires four things. It requires Social Security to obtain information, to move quickly. To focus the limited resources on areas it thinks are important and also to use its new penalty authority.

As others have said, this does not come right in over the transom; this has been a yearlong investigation. The investigation has uncovered a variety of different things. One of the things the gentleman from Pennsylvania [Mr. SANTORUM] mentioned is the horrible use of these middlemen, I mean preying upon new citizens coming into this country who do not know any better, and then the skimming process takes

place. It is clearly obvious that this thing is going on all over the place and is costing the American taxpayers billions of dollars.

So we have differences, I am sure, as to how to reform the welfare system, but we do not have any difference on this.

Madam Speaker, I would urge my colleagues and all our colleagues here to support the motion to instruct and restore taxpayers' confidence.

Mr. JACOBS. Madam Speaker, I yield 3 minutes to the distinguished and handsome gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. I thank the gentleman for yielding this time to me.

Madam Speaker, I join with my colleagues in strong support of this bipartisan amendment. My good friend and colleague, the gentleman from Pennsylvania [Mr. SANTORUM], I would like to refer to the amendment as the Pickle-Ford-Santorum amendment that was offered in the subcommittee and added to this particular bill.

You know, Madam Speaker, it was clear that it was early on that a response to this problem that we were faced with, with the SSI program, is, I like to say, thanks to both the staff of the Subcommittee on Human Resources and the Subcommittee on Oversight, who investigated this matter.

On February 24 there was a joint session of the Oversight Subcommittee and the Human Resources Subcommittee that conducted hearings. It was the intent of both of those committees, and we did act on the amendment and put it into this particular bill.

Madam Speaker, I join with my colleagues in a bipartisan effort to say "yes" as a conferee. I see Mr. SANTORUM is a conferee also. We will make sure both sides of the aisle will be protected, Democrats and Republicans, to keep this provision in the bill.

I just wanted the Republican side to know that it was a concerted effort, it was not one person's idea. This was a full investigation conducted by two subcommittees and a bipartisan effort in the full committee to bring this provision about.

Mr. SANTORUM. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JACOBS. Madam Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the motion to instruct conferees.

The previous question was ordered.

The SPEAKER pro tempore (Ms. DANNER). The question is on the motion to instruct conferees offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the fol-

lowing conferees: Messrs. GIBBONS, ROSTENKOWSKI, PICKLE, JACOBS, FORD of Tennessee, ARCHER, BUNNING, and SANTORUM.

There was no objection.

**CONFERENCE COMPARISON OF
H.R. 4277**

1. Establishment of the Social Security Administration (SSA) as an Independent Agency
(Secs. 101-109 of House bill and secs. 101-204 of Senate amendment)

a. Status of Agency

The Social Security Administration (SSA) is a component of the Department of Health and Human Services.

SSA would be made an independent agency in the executive branch of the Federal government, with responsibility for administration of the Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs.

b. Agency Leadership and Management

The Secretary of HHS has responsibility for administration of the OASDI and SSI programs. Administration of these programs has been delegated to the Commissioner of Social Security. The Commissioner is appointed by the President with the advice and consent of the Senate, but reports to the Secretary.

SSA would be governed by a three-member, full-time Board, appointed by the President with the advice and consent of the Senate. The Board members would serve 6-year terms, with no more than two members being from the same political party. Board members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be

Same as House provision.

SSA would be governed by a Commissioner appointed by the President, with the advice and consent of the Senate, for a 4-year term coinciding with the term of the President (or until the appointment of a successor.) The Commissioner would be compensated at the rate for level I of the Executive Schedule (equivalent to Cabinet officer pay). The

individuals who, by reason of education, experience, and attainments, are exceptionally qualified to perform the duties of the Board. Board members could be removed from office by the President only pursuant to a finding of neglect of duty or malfeasance in office. The terms of the first members would expire after two, four, and six years.

Recommendations for persons to serve on the Board would be made by the Chairmen of the House Ways and Means Committee and the Senate Finance Committee. A member may, at the request of the President, serve for up to a year after the member's term expires until a successor has taken office. A member may be appointed for additional terms.

The President would appoint one of the members to be chairperson of the Board for a 4-year term. The chairperson or two members could call a meeting of the Board with any two members constituting a quorum. Any member alone would be permitted to hold a hearing.

Each member of the Board would be compensated at the rate provided in level II of the Executive Schedule. No member would be permitted to engage in any other business,

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Commissioner would be responsible for the exercise of all powers and the discharge of all duties of SSA, have authority and control over all personnel and activities of the agency, and serve as a member of the 5-member Board of Trustees (the Secretary of Labor would no longer be a member of the Board).

Present Law

House Bill

vocation, profession, or employment.

The Board would:

- govern OASDI and SSI by regulation;
- establish the agency and oversee its efficient and effective operation;
- establish policy and devise long-range plans for the agency;
- appoint an Executive Director to act as the agency's chief operating officer;
- constitute three members of a new seven-member Board of Trustees of the Social Security Trust Funds, with the chairperson of the agency's Board serving as chairperson of the Board of Trustees (the Secretary of Labor would be dropped as a member of the Board of Trustees);
- prepare an annual budget, which would be presented by the President to Congress without revision, together with the President's annual budget for the agency;
- study and make recommendations to the Congress and President on the most effective methods of providing economic security through social insurance, SSI, and related programs, as well as on matters related to OASDI and SSI administration;
- provide the Congress and President with ongoing

The Commissioner would be authorized to prescribe rules and regulations; establish, alter, consolidate, or discontinue organizational units and components of the agency (except for those prescribed by law); and assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Commissioner may find necessary.

The Commissioner and the Secretary of Health and Human Services would be directed to consult with one another on an on-going basis to assure: (1) the coordination of the Social Security, SSI, and medicare and medicaid programs and (2) that adequate information concerning medicare and medicaid benefits would be available to the public.

Present Law**House Bill**

actuarial and other analyses;
and
--conduct policy analysis and
research.

The Board would be authorized to prescribe rules and regulations. It would also be authorized to establish, alter, consolidate, or discontinue organizational units and components of the agency (other than those provided by statute). Further, it would be permitted to assign duties and delegate (or authorize successive redelegations of) authority to act and to render decisions to such officers and employees as it deem necessary.

No provision.

There would be a 7-member part-time Advisory Board appointed for 6-year terms, made up as follows: 3 appointed by the President (no more than 2 from the same political party), 2 each (no more than 1 from the same political party) by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority member of the Committee on Finance). Presidential appointees would be subject to Senate confirmation. They would serve

Present Law

House Bill

staggered terms. The chairman of the Board would be appointed by the President for a 4-year term, coincident with the term of the President, or until the designation of a successor. The Board would meet at least 6 times each year and generally would be responsible for giving advice on policies related to the OASDI and SSI programs.

Compensation of members would be set at a rate equal to 25 percent of the rate for level III of the Executive Schedule (in addition, on meeting days compensation would be equivalent to that of the daily rate of level III of the Executive Schedule). Other benefits (except for health benefits) would not accrue. The Board would be required to appoint a staff director (paid at a rate equivalent to a rate for the Senior Executive Service) and would be authorized to hire necessary staff. The Board would be exempt from the provisions of the Federal Advisory Committee Act.

Specific functions of the Board would include:
--analyzing the nation's retirement and disability systems and making recommendations with respect to how the OASDI program and SSI program, supported by other

Present Law

House Bill

public and private systems, can most effectively assure economic security;

- studying and making recommendations relating to the coordination of programs that provide health security with the OASDI and SSI programs and with other public and private systems;
- making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the OASDI program, both in the short-term and long-term;
- making recommendations to the President of candidates to consider in selecting nominees for the position of Commissioner and Deputy Commissioner;
- reviewing and assessing the quality of service that the Administration provides to the public;
- reviewing and making recommendations with respect to policies and regulations regarding the OASDI and SSI programs;
- increasing public understanding of the Social Security system;
- in consultation with the Commissioner, reviewing the development and implementation of a long-range research and program evaluation plan for the Administration;
- reviewing and assessing any major studies of Social

An Executive Director would be appointed by the Board to serve as the agency's chief operating officer for a 4-year term. The individual would be permitted to serve up to one additional year until a successor had taken office (at the request of the chairperson of the Board). The Board would be permitted to appoint the Executive Director for additional terms. An Executive Director could be removed from office before completion of his or her term only for cause found by the Board. Compensation would be set at the rate provided in level II of the Executive Schedule.

The Executive Director would:

- be the chief operating officer responsible for administration;
- maintain an efficient and effective administrative structure;
- implement the long-term plans of the Board;
- report annually to the Board on the program costs of OASDI and SSI; make annual budgetary recommendations for the administrative costs of the agency and defend such

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Security that may come to the attention of the Board; and --conducting such other reviews and assessments as the Board determines to be appropriate.

No provision.

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recommendations before the Board;
--advise the Board and Congress of effects on administration of proposed legislative changes;
--serve as Secretary of the Board of Trustees (for OASDI);
--report to the Board in December of each year, for transmittal to Congress, on administrative endeavors and accomplishments; and
--carry out any additional duties assigned by the Board.

c. Deputy Commissioner of Social Security

Under current SSA practice, there are six deputy commissioners, (for operations; programs; finance, assessment and management; policy and external affairs; systems; and human resources). None of these are statutory positions. In addition, a Principal Deputy Commissioner is designated to serve as Acting Commissioner in the absence of the Commissioner.

A Deputy Director of Social Security would be appointed by, and serve at the pleasure of, the Executive Director.

The Deputy Director would perform such duties and exercise such powers as are assigned by the Executive Director, and serve as Acting Executive Director during the absence or disability of the Executive Director. The Deputy Director would also serve as Acting Executive Director in

A Deputy Commissioner would be appointed by the President, with the advice and consent of the Senate, for a 4-year term coincident with the term of the Commissioner or until appointment of a qualified successor.

The Deputy Commissioner would perform such duties and exercise such powers as are assigned by the Commissioner, and serve as Acting Commissioner during the absence or disability of the Commissioner (or vacancy of office) unless the President designates someone else. He or

Present Law**House Bill**

the event of a vacancy in the office of Executive Director unless the Board designates another official to fill the post. He or she would be compensated at the rate provided in level III of the Executive Schedule.

d. General Counsel

SSA receives legal services from the Office of General Counsel of HHS through a component headed by a Chief Counsel for Social Security.

A General Counsel would be appointed by and serve at the pleasure of the Board as SSA's principal legal officer. He or she would be compensated at the rate provided in level IV of the Executive Schedule.

e. Inspector General

The Inspector General of HHS is responsible for oversight of SSA.

An Office of Inspector General would be created within SSA, to be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978. He or she would be compensated at the rate provided in level IV of the Executive Schedule.

f. Beneficiary Ombudsman

No formal position of this nature exists within SSA.

An Office of Beneficiary Ombudsman, headed by a beneficiary ombudsman appointed by the Board, would be created within SSA. The term of office would be 5 years, except for the first ombudsman whose term would end September 30, 2000. The ombudsman would be

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she would be compensated at the rate provided for level II of the Executive Schedule. In addition, the Deputy Commissioner would serve as the Secretary of the Board of Trustees of the OASDI Trust Funds.

No provision.

The Inspector General Act of 1978 is amended to authorize establishment, under that act, of an Inspector General of SSA.

No provision.

permitted to serve up to one additional year until a successor had taken office (at the request of the chairperson of the Board), and could be appointed for additional terms. The ombudsman could be removed from office before completion of his or her term only for cause found by the Board. Compensation would be set at the rate provided in level V of the Executive Schedule.

The beneficiary ombudsman would:

- represent the interests and concerns of program beneficiaries within SSA's decision-making process;
- review SSA's policies and procedures for possible adverse effects on beneficiaries;
- recommend within SSA's decision-making process changes in policies which have caused problems for beneficiaries;
- help resolve problems for individual beneficiaries in unusual or difficult circumstances, as determined by the Administration; and
- represent the views of beneficiaries within SSA's decision-making process in the design of forms and issuance of instructions.

The Board would assure that the Office of Beneficiary Ombudsman is sufficiently staffed in regional offices,

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program centers, and the central office.

The annual report of the Board would include a description of the activities of the beneficiary ombudsman.

g. Administrative Law Judges

The Social Security Act requires SSA to conduct hearings to consider appeals of SSA decisions by beneficiaries and applicants for benefits. These hearings are conducted by administrative law judges (ALJs). Although not required by law, the agency follows the procedures of the Administrative Procedures Act (APA) with respect to the appointment of ALJs and the conduct of hearings. The ALJs are located organizationally within the Office of Hearings and Appeals, headed by an associate commissioner who reports to the deputy commissioner for programs.

An Office of Chief Administrative Law Judge, headed by a chief ALJ appointed by the Board, would be created within SSA to administer the affairs of SSA's ALJs in a manner so as to ensure that hearings and other business are conducted by the ALJs in accordance with applicable law and regulations. The chief ALJ would report directly to the Board.

h. Interim Authority of the Commissioner

No provision.

The President would be required to nominate appointments to the Board not later than April 1, 1995. If all members of the Board are not in office by October 1,

Senate Amendment

Conference Agreement

No provision.

No provision.

Present Law

House Bill

1995, the person then serving as Commissioner of Social Security would continue to serve as head of SSA within HHS, and serve as the head of the newly-established SSA, assuming the powers and duties of the Board and Executive Director.

i. Personnel; Budgetary Matters; Facilities and Procurement; Seal of Office

No provision.

The Board would appoint additional officers and employees as it deems necessary (with compensation fixed in accordance with title 5 of the U.S. Code, except as otherwise provided by law), and could procure services of experts and consultants.

The Director of the Office of Personnel Management (OPM) would be required to give SSA an allotment of Senior Executive Service (SES) positions that exceeds the number authorized for SSA immediately before enactment of this Act to the extent a larger number is specified in a comprehensive work plan developed by the Board. The total number of such positions could not be reduced at any time below the number SSA held immediately before enactment of this Act.

The Commissioner would appoint additional officers and employees to carry out the functions of SSA (with compensation fixed in accordance with title 5 of the U.S. Code, except as otherwise provided), and could procure services of experts and consultants.

The Director of Office of Personnel Management (OPM) would be required to give SSA an allotment of SES positions that is substantially greater than the number authorized in SSA immediately before enactment of this Act to the extent a larger number is specified in a comprehensive work plan developed by the Commissioner. The total number of such positions could not be reduced at any time below the number SSA held immediately before enactment of this Act.

Present Law

House Bill

In addition to the 8 Executive Schedule positions established by this Act, SSA also would be authorized 6 positions at level IV and 6 positions at level V of the Executive Schedule.

Appropriation requests for SSA staffing and personnel would be based upon a comprehensive workforce plan, established and revised from time to time by the Board.

No provision.

The Board would create a Seal of Office for SSA, and judicial notice would be taken of it.

**j. Transfers and
Transitional Rules**

No provision.

Appropriate allocations of personnel and assets (as determined by the Board in consultation with the Secretary of HHS) would be transferred from HHS to SSA. In addition, there would be transferred such number of ALJs as are necessary

The number of positions which may be excepted from the competitive service because of the confidential or policy-determining character of such positions could not exceed the equivalent of 10 full-time positions.

Same as House provision, except that (a) the plan would be established by the Commissioner and (b) appropriation would be authorized to be made on a biennial basis.

Appropriated contingency funds would be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to the Congress.

The Commissioner would create a Seal of Office for SSA, and judicial notice would be taken of it.

All functions, assets and personnel related to the administration of Social Security programs would be transferred from HHS to SSA. Transfers include all personnel employed in connection with the functions transferred to SSA

Present Law

House Bill

to carry out the functions transferred by this Act (as determined necessary by the Board in consultation with the Secretary).

The Secretary of HHS shall terminate 6 positions in the Department of HHS placed in level IV and 6 positions placed in level V of the Executive Schedule other than positions required by law.

Effective upon entry of all initial Members of the Social Security Board, the position of Commissioner of Social Security in HHS would be abolished.

Funds available to any official or component of HHS whose functions are transferred to the Commissioner of Social Security or the independent SSA may, with the approval of the Director of the Office of Management and Budget, be used to pay compensation of any officers appointed during the transition until funds for that purpose are otherwise available.

and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, or others funds employed, held, or used in connection with these functions.

HHS employees who are not employed on the date of the enactment of this Act in connection with functions transferred to SSA, but who are so employed on the day before SSA is established as an independent agency, may be transferred from HHS to SSA by the Commissioner, after consulting with the Secretary of HHS, if the Commissioner determines such transfers to be appropriate.

Same as House provision.

HHS employees who are employed on the date of enactment of this Act, solely in connection with functions

All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges in effect under the authority of the Secretary of HHS at the time of the transition would continue under the independent

transferred by this title to SSA, and who are so employed on the day before the date SSA is established as an independent agency, shall be transferred from HHS to SSA.

The President would be required to appoint a Commissioner within 60 days of the enactment of this Act. Upon such appointment and confirmation by the Senate, the Commissioner appointed under this title would assume the duties of the HHS Commissioner of Social Security until SSA would be established as an independent agency. Other nominations and appointments provided under this Act may be made at any time on or after enactment.

The office of Commissioner of Social Security in HHS would be abolished effective upon the appointment of a Commissioner of the independent SSA.

All orders, rules, regulations, determinations, contracts, collective bargaining agreements (including ongoing negotiations), recognitions of labor organizations, certificates, licenses and privileges in effect under the authority of the Secretary of HHS at the time of the transition would continue under

Present Law

House Bill

agency until their expiration or modification by the Board in accordance with law. Nor would the change alter any pending proceeding before the Secretary, nor any suit nor penalty, except that such proceedings would continue before the Board.

The transfer would not cause any full-time or part-time employee to be reduced in grade or compensation for one year after the transition.

k. Transition Director

No provision.

the authority of the independent SSA until modified or terminated by the Commissioner. Suits and penalties commenced prior to enactment would also continue. Collective bargaining agreements would remain in effect until the date of termination specified in such agreements.

The transition of SSA to its new status as an independent agency would be led by a Transition Director, who would be selected on the basis of experience and knowledge of the operation of the Federal Government. Within 30 days after enactment, the President would be required to appoint the Transition Director, who would be compensated at the rate provided for level IV of the Executive Schedule.

Before the Commissioner of the independent SSA has been appointed, the Transition Director shall consult regularly with the Director of the Office of Management and Budget. Upon such appointment, the Transition Director shall

1. Advisory Council

An advisory council is appointed by the Secretary of HHS every four years for the purpose of reviewing the status of the Social Security and Medicare programs.

No provision.

m. Annual Report

The Secretary of HHS is required to make an annual report to Congress of the administration of the functions with which the Secretary is charged under the Social Security Act (including OASDI and SSI).

No provision.

Effective date.--In general, the provision would take effect October 1, 1995.

work under the direction of the Commissioner of SSA.

Within 120 days of enactment, the Transition Director and the Commissioner of Social Security would be required to report to the Congress on the status of the transition and on any significant internal restructuring or management improvements that are proposed to be undertaken.

There would be no quadrennial advisory councils for Social Security, although quadrennial councils would continue to be convened for Medicare.

The requirement for an annual report with respect to OASDI and SSI is eliminated.

Effective date.--In general, the provision would take effect on the earlier of 180 days after the enactment of this Act or a date designated by the President.

2. Restrict Disability Insurance and Supplemental Security Income Disability Payments to Substance Abusers (Sec. 201 of the House bill and secs. 301-305 of the Senate amendment)

To be eligible for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability benefits, an individual must have a medically determinable physical or mental impairment that has lasted or is expected to last for 12 months or is expected to result in death, and the individual must be unable to perform substantial gainful activity because of the impairment.

Under SSA regulations, drug addiction and alcoholism must be medically determinable impairments. The law requires disabled SSI beneficiaries who are medically determined to be drug addicts or alcoholics to undergo treatment when available at approved facilities. They must also comply with the terms of their treatment program and comply with monitoring and testing provided by the Secretary. In addition, the law requires that these SSI recipients receive their payments through

Effective 180 days after enactment, the benefits of current and prospective Social Security Disability Insurance (SSDI) beneficiaries whose drug addiction or alcoholism is a contributing factor material to the determination of their disability would be required to be paid to a representative payee.

For both SSDI and SSI, it would be deemed in the best interest of the individual to be paid through a representative payee if alcoholism or drug addiction is a contributing factor material to the determination of disability.

The requirement that payment be certified to an alternative payee is modified by specifying that this occur, "if the interest of the disabled individual would be served thereby."

The Secretary of Health and Human Services would be required to conduct a study of

Senate Amendment

Conference Agreement

Similar provision, except that the requirement would apply to individuals whose disabilities are based in whole or in part on a medical determination that the individual is a drug addict or alcoholic.

No provision.

Present Law

House Bill

a representative payee.

Under OASDI, a representative payee is appointed when it is in the interest of the individual, regardless of the legal competence or incompetence of the individual.

Community-based nonprofit social service agencies in existence on October 1, 1988, and serving as representative payees for five or more recipients are allowed to collect a monthly fee for their services. The fee is collected from the SSDI or SSI payment, and cannot exceed the lesser of ten percent of the benefit or \$25 per month. The authority for qualified organizations to charge a fee for representative payee services expires July 1, 1994.

The law is silent with regard to assigning an order

(a) the cost, feasibility, and equity of requiring all SSDI and SSI beneficiaries who suffer from alcoholism or drug addiction (including those whose addiction did not contribute materially to the determination of disability) to have a representative payee, (b) the feasibility of, and appropriate timetable for, providing benefits through non-cash means (e.g., vouchers, debit cards, electronic benefit transfer systems), (c) the extent to which child recipients are afflicted by drug addiction or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment and (d) the extent to which children's representative payees are afflicted by drug addiction or alcoholism, and methods to identify these afflicted individuals and to ensure that benefits continue to be provided to beneficiaries appropriately.

Not later than April 1, 1995, the Secretary shall transmit to the Committee on Ways and Means and the Committee on Finance a report on the findings and recommendations of the study.

In selecting a representative payee,

Any benefits payable to
SSDI and SSI beneficiaries

Present Law

House Bill

of preference for the appointment of representative payees. SSA regulations give preference to family members and friends over organizations.

In both programs if the representative payee is determined to have misused any benefits the Secretary must certify payment to an alternative payee or to the individual.

preference would be given to qualified organizations defined to include:

(a) community-based, nonprofit social service agencies; (b) State or local agencies whose mission is to carry out income maintenance, social service, or health care-related services; or (c) State or local government agencies with fiduciary responsibilities (or a designee of such an agency if the Secretary deems it appropriate; unless the Secretary determines that selection of such an agency would not be appropriate.

The fee for services that qualified representative payees of drug addicts and alcoholics receive would be set at ten percent of the monthly benefit.

The requirement that qualified organizations have been in existence on October 1, 1988, to receive a fee for representative payee services would be repealed.

The authority for qualified organizations to charge a fee for representative payee services would be made permanent.

SSDI beneficiaries whose drug addiction or alcoholism was material to the determination of their

Senate Amendment

Conference Agreement

(including retroactive benefits) based on disability would be payable only pursuant to a certification of such payment to a qualified organization acting as representative payee for the individual. A qualified organization would be further defined to include an agency or instrumentality of a State or a political subdivision of a State.

No provision.

No provision.

No provision.

SSDI and SSI beneficiaries whose disability is based in whole or in part on drug addiction or alcoholism would

Present Law**House Bill**

disability would be required to undergo treatment, when available at approved facilities, to comply with the terms of such treatment programs, and to comply with monitoring and testing provided by the Secretary.

Benefits would be suspended for SSDI and SSI disability beneficiaries who fail to undergo or comply with required treatment for drug addiction or alcoholism. (Medicare benefits would continue during the period of suspension, as would Medicaid benefits for suspended SSI recipients). This treatment requirement would apply, beginning 180 days after enactment, to: 1) SSDI beneficiaries on the rolls with a primary diagnosis of alcoholism or drug addiction, and 2) new SSDI beneficiaries whose alcoholism or drug addiction is a contributing factor material to their disability; and 3) any SSI recipient whose alcoholism or drug addiction is a contributing factor material to the determination of disability.

To qualify for benefit reinstatement, SSDI and SSI recipients would have to demonstrate compliance with treatment for progressively longer periods -- two months,

be required to undergo treatment, when available at approved facilities, to allow their treatment to be monitored, and to comply with monitoring and testing provided by the Secretary.

The individual must demonstrate in such manner as the Secretary requires, including at a continuing disability review not later than 1 year after the determination of disability, that the individual is complying with the terms and conditions of treatment. If the Secretary finds that an individual is not complying, the Secretary, in lieu of termination, may suspend benefits until compliance is reestablished, including compliance with any additional requirements the Secretary determines necessary. Benefits are not payable for any month after the 24 month period beginning with the determination of disability unless the individual furnishes evidence that the individual continues to be under a disability based in whole or in part on a medical determination that the individual is a drug addict or alcoholic. If, at the end of the 24-month period, an SSI beneficiary furnishes evidence that the individual

Present Law**House Bill**

three months, and six months for the first, second, third (and subsequent) instances of noncompliance, respectively. An individual's SSDI or SSI benefits would be terminated after he or she was suspended for 12 consecutive months, but SSDI benefits for qualified dependents would continue to be paid for two years after the last month of the disabled beneficiary's entitlement. If an SSI recipient's benefits have been suspended for 12 consecutive months, the recipient shall not be eligible for SSI for the 12-month period that begins with the end of the 12-month suspension period.

Treatment may be any medical or psychological treatment that is appropriate for the individual's addiction and for the stage of the individual's rehabilitation, at an approved facility.

No provision.

The Secretary, in consultation with drug and alcohol treatment

continues to be under a disability based in whole on a medical determination that the individual is a drug addict or alcoholic, the individual shall be entitled to benefits based on such disability for no more than an additional 36 months.

Similar provision.

The Secretary may retain jurisdiction in the case of a hearing before the Secretary to the extent the Secretary determines that this is necessary to carry out this requirement, and must submit annually to the Congress a report on these activities.

Within 1 year of enactment, the Secretary of HHS must provide for the establishment

professionals, would be required to issue regulations further defining appropriate treatment and compliance, to establish guidelines for evaluating compliance, and to establish a referral and monitoring agency for each State. These agencies would identify appropriate placements for SSDI and SSI recipients who are drug addicts and alcoholics, refer them to such treatment, monitor compliance and report failures to comply to the Secretary.

The Secretary would be required to submit annual reports to Congress on required testing and referral and monitoring activities.

These reports would indicate the number and percentage of substance abusers who did not receive regular testing during the year.

SSDI and SSI benefits (including retroactive benefits) for individuals whose drug addiction or alcoholism is a contributing factor material to the determination of their disability, would be terminated after 36 months of entitlement.

Once terminated, the individual would not be entitled to any future benefits if alcoholism or drug addiction

of referral and monitoring agencies for each State.

Similar to the House bill.

No provision.

In no event shall an individual be entitled to benefits for more than a total of 36 months (excluding periods of suspension) unless upon the termination of the 36th month the individual furnishes evidence that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

Present Law

House Bill

were a contributing factor material to the disability termination. For those beneficiaries on the rolls 180 days after enactment of this provision, the first month ending after 180 days after enactment would be treated as the first month of entitlement for the purpose of determining their 36-month period of entitlement.

Retroactive lump sum SSDI and SSI disability benefits for individuals whose alcoholism or drug abuse is a contributing factor material to the Secretary's finding that they are disabled would be paid on a prorated basis, and each month's payment would be limited to 200 percent of the individual's monthly benefit amount.

In determining whether an individual is engaging in substantial gainful activity, the Secretary must consider services performed or earnings derived from such services without regard to the legality of such services.

The Secretary of HHS would be required to develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches for drug addicts and

No provision.

Any proceeds derived from criminal activity undertaken to support substance abuse would be treated as evidence of the individual's ability to engage in substantial gainful activity.

No provision.

Present Law**House Bill**

alcoholics who are subject to these requirements. A report to the Committee on Ways and Means and Committee on Finance would be due no later than December 31, 1997.

No provision.

Effective date.--Generally, 180 days after enactment. The requirement to pay benefits to certain SSDI beneficiaries through a representative payee would be effective for months beginning after 180 days after enactment. The provision relating to substantial gainful activity would be effective upon enactment.

Requires that the Secretary assure that every SSDI and SSI disability beneficiary whose disability is based in whole or in part on drug addiction or alcoholism be given high priority for treatment through entities supported by the various States under any substance abuse block grant authorized by law.

Effective date.--Applies to benefits payable for determinations of disability made 90 or more days after the date of enactment. In addition, with respect to any SSDI or SSI beneficiary determined to be entitled to disability benefits before 90 days after the date of enactment and whose disability is based in whole or in part on a medical determination that the individual is a drug addict or alcoholic, the Secretary of HHS shall provide during the 3-year period beginning after the date of enactment for the application of the above requirements, with the time periods described above to begin upon such application.

**3. Require Issuance of
Physical Documents in the
Form of Bonds, Notes, or
Certificates to the Social
Security Trust Funds**
(Sec. 202 of the House
bill)

In general, section 201(d) of the Social Security Act requires the Secretary of the Treasury to invest annual surpluses of the Social Security Trust Funds in interest bearing obligations of the U.S. government. Under current Treasury practice, these holdings are recorded as entries on a ledger. No physical documents are required to be issued to the Trust Funds evidencing these obligations.

The provision would require that each obligation issued for purchase by the Social Security Trust Funds be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury. This physical document would state the principal amount, date of maturity, and interest rate of the obligation. It would also state on its face that: "...the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest."

In addition, interest on such obligations would be paid to the Trust Funds with paper checks drawn on the general fund.

Effective date.--The provision would apply with respect to

Senate Amendment

Conference Agreement

obligations issued, and payments made, after 60 days after the date of enactment. No later than 60 days after enactment, the Secretary of the Treasury would be required to issue to the Social Security Trust Funds physical documents in the form of bonds, notes, or certificates of indebtedness for all outstanding Social Security Trust Fund obligations.

4. Make More Explicit the Requirement for Public Telephone Access to Local Social Security Offices
(Sec. 203 of House bill)

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), requires SSA to: (a) maintain telephone access to local offices at the level generally available as of September 30, 1989, and (b) relist the numbers of affected offices in local telephone directories. P.L. 101-508 also required the General Accounting Office to report to Congress on the level of public telephone access to local offices following enactment of these requirements.

In September 1991, the GAO reported that SSA had generally complied with the requirement that it relist

The provision would add the following sentence to the current statutory requirement that SSA maintain public access to its local offices at the level generally available on September 30, 1989: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines."

In addition, the General Accounting Office would be required to make an independent determination of the number of telephone lines to each SSA

No provision.

Present Law**House Bill**

local office telephone numbers. It also reported that general inquiry lines to the offices to which the provisions of P.L. 101-508 apply had decreased by 30 percent, or 766 lines, below the level that existed on September 30, 1989.

local office which are in place as of 90 days after enactment and to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance no later than 150 days after enactment.

SSA would be required to maintain its toll-free service at a level at least equal to that in effect on the date of enactment.

Effective date.--The provision relating to local telephone access would be effective 90 days after enactment. The provision relating to toll-free service would be effective upon enactment.

5. Increase Social Security Exclusion for Election Workers (Sec. 204 of House bill)

Election workers who earn less than \$100 per year are subject to three Social Security exclusions: (a) at the option of a State, they may be excluded from the State's voluntary coverage agreement with the Secretary of Health and Human Services (HHS); (b) they are excluded from the requirement that State and local workers hired after March 31, 1986, pay the hospital insurance portion of the Social Security tax (1.45

These three exclusions would be modified to apply to election workers with annual earnings of up to \$1,000, rather than the current \$100; and the new exempt amount would be indexed for increases in wages in the economy.

No provision.

[The Finance Committee reported a similar provision as part of S.2038 (102nd Congress), but with no provision for indexing.]

percent); and (c) they are excluded from the requirement in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) that State and local workers who are neither covered by a State or local retirement system nor by a voluntary agreement pay the full Social Security tax (7.65 percent).

Effective date.--The provision would apply to services performed on or after January 1, 1995. Modifications of State voluntary agreements to reflect the higher exclusion for election workers would be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.

6. Permit Use of Social Security Numbers for Jury Selection (Sec. 205 of House bill)

The Privacy Act of 1974 prohibits States from requiring individuals to provide Social Security numbers for identification purposes unless the State was doing so prior to January 1, 1975, or the State is specifically permitted to do so under Federal law. The Social Security Act currently

States and Federal District Courts would be permitted to use Social Security numbers which have already been collected for purposes permitted under current law to eliminate duplicate names and names of convicted felons from jury source lists. Any Federal law enacted prior to enactment of this provision which is

Senate Amendment

Conference Agreement

No provision.
[The Senate passed a similar
provision as part of H.R. 11
(102nd Congress).]

Present Law**House Bill**

authorizes States to use the Social Security number in administration of any tax, general public assistance and driver's license or motor vehicle registration law within its jurisdiction. Other Federal statutes authorize the State use of the Social Security number for other purposes.

inconsistent with the above policy would be null, void and of no effect.

Currently, courts utilize jury source lists within their jurisdiction to select jurors. Source lists (most commonly made up of lists of licensed drivers and registered voters) are usually computer tapes merged by the courts to form one pool--or master list--from which jurors are selected.

States which are permitted under current law to collect Social Security numbers for purposes such as driver's licenses and voter registration are not allowed to use those Social Security numbers for other purposes such as refining jury selection master lists to identify and eliminate duplicate names, unless the court was using the Social Security number for that purpose before the Privacy Act took effect.

Current law likewise prevents State and Federal

Senate Amendment

Conference Agreement

Courts from using the Social Security number to run the merged list against computerized lists of convicted felons in order to eliminate these individuals from jury pools.

Effective date.--The provision would be effective upon enactment.

7. Authorize Social Security Coverage of Police Officers and Firefighters
(Sec. 206 of House bill)

In general, employees of State and local governments who participate in a public retirement system can be brought under Social Security by means of voluntary agreements entered into with the States with the Secretary of Health and Human Services.

However, the State option to obtain Social Security coverage for police officers and firefighters who are under a public retirement system applies only in 24 States that are named in the Social Security Act. (An additional option applies with respect to firefighters only: any State may obtain coverage for them if the governor certifies that it would improve the overall benefit protection of firefighters in the coverage

The provision would extend to all States the option to provide police officers and firefighters who participate in a public retirement system with Social Security coverage under their voluntary agreements with the Secretary of HHS. The existing requirement for a referendum held under the authority of the State would continue to apply.

Senate Amendment

Conference Agreement

No provision.

group and a referendum is held among the group under authorization of the State.) The Act also provides that, in the 24 named States, Social Security coverage can be obtained only after a State-sponsored referendum.

Effective date.--The provision would apply with respect to modifications filed by States after enactment.

8. Provide Limited Exemption from SECA for American Ministers Working and Resident in Canada
(Sec. 207 of House bill)

Section 233(c)(1) of the Social Security Act authorizes the President to enter into "totalization agreements" with foreign countries to coordinate entitlement to Social Security benefits in the U.S. with pension benefits in those foreign countries. The law requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of work under the Social Security systems of the United States and another country.

Article V(7) of the totalization agreement between the United States and Canada provides that individuals

The provision would exempt ministers who failed to pay SECA taxes in the United States on earnings from services performed in Canada for a period before the 1984 totalization agreement between the United States and Canada went into effect, and who were required to pay social insurance taxes in Canada on such earnings, from the payment of such taxes or related penalties, owed to the United States.

The ministers' Social Security earnings records would not be credited for years in which the SECA tax was not paid.

No provision.
[The Senate passed an identical
amendment as part of H.R. 11
(102nd Congress).]

considered self-employed by the United States who are American citizens but are residents of Canada are covered only under the Canadian Pension Plan.

Under the Social Security Act, an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order is generally considered self-employed for Social Security payroll tax purposes and subject to SECA taxes.

The Canadian social insurance program treats ministers as employees of the church rather than self-employed.

Prior to the 1984 totalization agreement with Canada, duly ordained and licensed ministers who were American citizens, but residents of Canada, were required to pay SECA taxes to the United States and Social Security taxes to Canada.

In some cases, ministers who were American citizens, but residents of Canada, failed to file tax returns or pay SECA tax believing that they were not required to do so because they were paying into the Canadian Pension Plan

Senate Amendment

Conference Agreement

Present Law**House Bill**

as residents of Canada. The Internal Revenue Service has assessed taxes and penalties against those ministers who failed to file a return and pay the required taxes prior to the 1984 agreement.

Effective date.--The provision would be effective for individuals who meet the requirements of the statute and who file a certificate with the Internal Revenue Service within 180 days after the IRS issues regulations implementing this provision. The certificate shall be effective for taxable years 1979 through 1984.

The Social Security benefit for current Social Security beneficiaries who file certificates under this provision, would be recomputed for months following approval of the certificate of exemption.

9. Disregard the Windfall Elimination Provision When Computing Totalization Benefits (Sec. 208 of House bill)

The President is authorized to enter into "totalization agreements" with foreign countries. If an individual has worked under Social Security systems in both the U.S. and a foreign

The provision would disregard the windfall elimination provision in computing any U.S. totalization benefit, and in computing the amount of a regular U.S. benefit of an individual who

Senate Amendment

Conference Agreement

No provision.

Present Law**House Bill**

country with which the U.S. has such an agreement, but has not worked long enough to qualify for a benefit, a totalization agreement allows the individual's coverage under both systems to be combined, or "totalized," in order for one country (or both) to pay a benefit. Benefits paid under a totalization agreement are generally prorated to take account of the fact that the person did not work for an entire career under the system that is paying benefits.

The windfall elimination provision (WEP) is applied to the computation of Social Security benefits for workers who are eligible for both Social Security and a pension from work not covered by Social Security. Under the WEP, a different benefit formula yielding a lower amount is used to calculate the worker's Social Security benefit.

With respect to individuals who have worked under Social Security systems in both the United States and a foreign country with which the United States has a totalization agreement, the WEP applies: 1) in the computation of some U.S. totalization benefits, and 2)

(1) receives a foreign totalization benefit based in part on U.S. employment and (2) does not receive any other pension which is based on non-covered employment.

in the computation of regular U.S. Social Security benefits if the individual receives a foreign totalization benefit.

Effective date.--The provision would be effective with respect to benefits payable for months after January, 1995.

10. Exclude Certain Military Reservists from Application of the Government Pension Offset and the Windfall Elimination Provision
(Sec. 209 of House bill)

The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are intended to reduce Social Security benefits payable to an individual who qualifies for both a Social Security benefit and a pension based on employment not covered by Social Security.

The WEP reduces a worker's Social Security retirement or disability benefit in cases where the worker is receiving both a Social Security benefit and a pension based on employment not covered by Social Security. The WEP is designed to eliminate the windfall resulting from the weighted Social Security benefit formula which is intended to replace a higher

An individual's receipt of a pension based wholly on service performed as a member of a uniformed service, whether on active or inactive duty and whether performed prior to 1988 or not, would not trigger application of the GPO and WEP to the individual's Social Security benefits.

Senate Amendment

Conference Agreement

No provision.

Present Law**House Bill**

proportion of wages for low-earning workers than for high-earning workers.

Active military service became covered under Social Security in 1957. Inactive duty by reservists (such as weekend drills) became covered under Social Security in 1988. A pension based on either type of service (active or inactive), if performed before 1957, does not trigger the WEP. The only military pension which triggers the WEP is a pension based on inactive duty after 1956 and before 1988.

Under the GPO, spouse's and widow(er)'s benefits received by an individual based on his or her spouse's Social Security-covered work are reduced by two-thirds of the amount of any government pension to which the individual is entitled based on his or her own work in a government job not covered under Social Security.

Effective date.--The provision would be effective with respect to benefits payable for months after January, 1995.

Senate Amendment

Conference Agreement

11. Repeal Facility-of-Payment Provision (Sec. 210 of House bill)

As a general rule, when an individual receiving benefits as the dependent of a worker has a deduction in his or her benefits--for example, due to his or her own earnings exceeding the earnings test exempt amount--and the Maximum Family Benefit rule applies, the withheld benefits are redistributed and paid to other dependents.. (The Maximum Family Benefit, or MFB, is a limit on the total amount of benefits which can be paid on a worker's record to the worker and his or her dependents.)

However, if all of the dependents are living in the same household, the affected individual's benefit check is not actually withheld; instead, the individual receives a notice from the Social Security Administration accompanying the benefit check. This notice explains that the beneficiary is subject to a benefit deduction and should not actually receive the benefit check. However, the benefit is being paid with the understanding that it is for the use and benefit of the other dependent beneficiaries. This procedure

The facility-of-payment provision would be repealed. As a result, a beneficiary who is subject to a deduction would have his or her benefits withheld, and the withheld amount would be redistributed and paid directly to the other dependents.

Senate Amendment**Conference Agreement**

No provision. [The Senate passed an identical amendment as part of H.R. 11 (102nd Congress).]

is known as the facility-of-payment provision.

In cases where all the dependent beneficiaries are not residing in the same household, the facility-of-payment provision does not apply and the withheld benefits are redistributed and paid directly to the remaining dependents.

Effective date.--The provision would be effective for benefits payable for months after December, 1995.

12. Maximum Family Benefits in Guarantee Cases (Sec. 211 of House bill)

A guarantee is provided for workers who receive disability benefits, then stop receiving disability benefits, and subsequently become reentitled to benefits due to death, retirement or disability. This "subsequent entitlement guarantee" provides that the basic benefit amount (the Primary Insurance Amount, or PIA) of a worker who becomes reentitled to benefits or dies (thereby entitling his or her survivors) cannot be less than the PIA in effect in the last month of the worker's prior entitlement to disability benefits.

The provision would make a conforming change in the Maximum Family Benefit, so that the guaranteed PIA would be the basis for calculating the guaranteed Maximum Family Benefit.

Senate Amendment

Conference Agreement

No provision.

Present Law

House Bill

Due to a drafting error in the 1977 Social Security Amendments, the guarantee does not extend to the Maximum Family Benefit (MFB) payable on the worker's record, which is determined based upon the PIA. (The MFB is a limit on the total amount of benefits which may be paid on a worker's record to the worker and his or her dependents.) As a result, the MFB which is payable when the worker becomes reentitled to benefits or dies may be less than the MFB payable in the last month of the worker's prior entitlement to disability benefits.

Effective date.--The provision would be effective for the MFB of workers who become reentitled to benefits or die (after previously having been entitled) after January, 1995.

Senate Amendment

Conference Agreement

13. Disclosure of Social Security Administration Information for Epidemiological Research
(Sec. 212 of House bill)

Current law prohibits Federal agencies from releasing personal information contained in an individual file without the written consent of the individual.

Prior to the 1989 Supreme Court decision *United States Department of Justice v. Reporters Committee for Freedom of the Press* (Reporters Committee), the Social Security Administration (SSA) would permit disclosure of personally identifiable information to epidemiological researchers believing that it was permitted to do so under the Freedom of Information Act (FOIA). Disclosure of personal information is permitted under FOIA when the public interest served by the disclosure outweighs the privacy interest served by withholding and information.

In the Reporters Committee decision, the Supreme Court restricted disclosures of personally identifiable information under FOIA, ruling that disclosure of personal information serves the public interest only when the

The provision would require SSA, under certain circumstances, to disclose limited personally identifiable information for epidemiological research purposes only, and it would permit the Secretary of the Treasury to provide such information to SSA for purposes of complying with such requirement.

Under the provision, SSA would be required to comply with requests for information showing whether an individual is alive or deceased. The requester would be required to meet two conditions:

(1) the information would be used for epidemiological or similar research which the Secretary determined showed a reasonable promise of contributing to a national health interest; and

(2) the requester agrees to reimburse the Secretary for providing such information and agree to comply with limitations on safeguarding and rerelease or redisclosure of such information, as specified by the Secretary. The

No provision.

Present Law**House Bill**

requested information gives the public insight into the Federal government's performance of its statutory duties.

As a result of the Reporters Committee decision, SSA has discontinued the practice of disclosing information from its files to epidemiological researchers.

Epidemiological research examines specific risk factors (such as exposure to chemical agents or specific medical treatments) that may cause disease by measuring the effect of these factors on a known population.

14. Misuse of Symbols, Emblems and Names Related to the Social Security Administration, Treasury Department and Internal Revenue Service (Sec. 213 of House bill)

In 1988, Congress enacted a provision prohibiting the use of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) in a

Secretary would not be required to comply with a request for information if doing so would constitute a violation of a contract entered into with a State for the provision by the State of death information.

The Secretary of the Treasury would be permitted to provide such information to SSA for purposes of complying with such a requirement.

Effective date.--The provision would apply to requests for information made after the date of enactment.

The provision would amend current law to:

(a) eliminate the annual cap on penalties;

(b) also prohibit the use of words and letters of the Department of Health and Human

No provision. [The Senate passed a similar amendment as part of H.R. 11 (102nd Congress).]

Present Law**House Bill**

manner that the user knows or should know would convey the false impression that such an item was approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services, or that the user has some connection with, or authorization from, these agencies.

The law permits the Secretary of Health and Human Services (HHS) to impose civil monetary penalties not to exceed \$5,000 per violation or, in the case of a broadcast or telecast, \$25,000 per violation. The total amount of penalties which may be imposed is limited to \$100,000 per year.

Amounts collected by the Secretary are deposited as miscellaneous receipts of the Treasury of the United States.

There is no provision in present law prohibiting the use of titles, symbols, emblems, and names of the Department of the Treasury (and its subsidiary agencies) in connection with advertisements, mailings, solicitations, or other business activities.

Services, Supplemental Security Income Program, or Medicaid, and the symbols or emblems of the Department of Health and Human Services;

(c) define a "violation," with regard to mailings, as each individual piece of mail in a mass mailing;

(d) further prohibit the use of names, letters or emblems of SSA, HCFA, or HHS in a manner that reasonably could be interpreted to convey a relationship with these agencies;

(e) exempt from the prohibition the use by any State agency or instrumentality of a State, or political subdivision of any words, letters, symbols, or emblems which identify an agency or instrumentality of the State or political subdivision;

(f) repeal the present law requirement that the Department of Health and Human Services obtain a formal declination from the Department of Justice (DOJ) before pursuing a civil monetary penalty case under this provision;

(g) provide that penalties collected by the Secretary for violations of this provision would be deposited in the Old-Age and Survivors Insurance Trust Fund;

(h) stipulate that no person may reproduce, reprint, or distribute for a fee any

Senate Amendment

Conference Agreement

form, application, or other publication of the Social Security Administration unless such person has obtained specific written authorization for such activity in accordance with regulations prescribed by the Secretary;

(i) provide that any determination of whether there is a violation of this provision shall be made without regard to a disclaimer;

(j) require the HHS Secretary to report annually to the Congress detailing the number of complaints of deceptive practices received by SSA, the number of cases in which SSA sent a notice of violation of this section to an individual requesting that the individual cease misleading activities, the number of cases referred by SSA to the HHS Inspector General (IG), the number of investigations undertaken by the HHS IG, the number of civil monetary penalties formally assessed by the HHS IG in a demand letter, the total amount of civil monetary penalties assessed during the year, the total amount of civil monetary penalties deposited in the OASI trust fund during the year, and the number of hearings requested pursuant to this provision and their disposition; and

(k) specify that the

Senate Amendment

Conference Agreement

provisions in section 1140 would continue to be enforced by the Office of the Inspector General of the Department of Health and Human Services.

The provision would prohibit the use in advertisements, solicitations, and other business activities of words, abbreviations, titles, letters, symbols, or emblems associated with the Department of the Treasury (and services, bureaus, offices or subdivisions of the Department, including the Internal Revenue Service) in a manner which could reasonably be interpreted as conveying a connection with or approval by the Department of the Treasury.

The bill would establish a civil penalty of not more than \$5,000 per violation (or not more than \$25,000 in the case of a broadcast or telecast). In addition, the bill would establish a criminal penalty of not more than \$10,000 (or not more than \$50,000 in the case of a broadcast or telecast) or imprisonment of not more than one year, or both, in any case in which the prohibition is knowingly violated. Any determination of whether there is a violation would be made without regard to the use of a disclaimer of affiliation with the Federal Government. The

Senate Amendment

Conference Agreement

No provision.

Secretary of the Treasury would be required to provide to the Committee on Ways and Means and the Committee on Finance, no later than May 1, 1995, a report on enforcement activities relating to the implementation of the provision.

Effective date.--The provisions would apply with respect to violations occurring after the date of enactment.

15. Increase in Penalties for Unauthorized Disclosure of Social Security Information (Sec. 214 of House bill)

Each year, the Social Security Administration (SSA) receives and maintains earnings information, including the names and addresses of employers, on over 130 million working Americans in its computer system. Employers are required to file annually with the Social Security Administration copies of their workers' W-2 statements. The statements contain the worker's Social Security numbers and the amount of wages the workers received during the year. In addition, each SSA file contains an individual's birth certificate information, such as date of

The provision stipulates that unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act would be a felony. Each occurrence of a violation would be punishable by a fine not exceeding \$10,000 or by imprisonment not exceeding five years, or both.

No provision. [The Senate passed an identical provision as part of H.R. 11 (102nd Congress).]

birth, father's name and mother's maiden name. For those receiving Social Security benefits, the file contains a current address and monthly benefit amounts.

The Social Security Act includes provisions which prohibit the unauthorized disclosure of information contained in Social Security Administration files. The Act provides that any person who violates these provisions and makes an unauthorized disclosure can be found guilty of a misdemeanor and, upon conviction, punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both.

Effective date.--The provision would apply to violations occurring on or after the date of enactment.

16. Increase in Authorized Period for Extension of Time to File Annual Earnings Report
(Sec. 215 of House bill)

In general, individuals under age 70 who receive Social Security retirement or survivors benefits must file an annual report of their earnings with the Social Security Administration for any taxable year in which

The time for which an extension could be granted for filing an earnings report would be increased to 4 months.

Senate Amendment**Conference Agreement**

No provision. [The Senate passed a similar amendment as part of H.R. 11 (102nd Congress).]

their earnings or wages exceed the annual exempt amount of earnings under the Social Security earnings test. These reports are due to be filed by the same date as Federal income tax returns, the fifteenth day of the fourth month after the close of the taxable year (normally April 15). Individuals may be granted a reasonable extension of time for filing an earnings report if there is a valid reason for delay, but not more than 3 months. An extension of time for filing an income tax return may be granted for up to 4 months.

Effective date.--The provision would be effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

17. Extension of Disability Insurance Program Demonstration Project Authority (Sec. 216 of House bill)

Section 505(a) of the Social Security Disability Insurance Amendments of 1980 (P.L. 96-265), as extended by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) and the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), authorizes the Secretary of

The Secretary's authority to initiate disability work incentive demonstration projects that waive compliance with benefit provision (as provided in P.L. 96-265) would be extended through June 9, 1996. A final report would be due no later than October 1, 1996.

Senate Amendment

Conference Agreement

No provision.

Health and Human Services to waive compliance with the benefit requirements of titles II and XVIII for purposes of conducting work incentive demonstration projects to encourage disabled beneficiaries to return to work. The authority to waive compliance applies to projects initiated prior to June 10, 1993. A final report is due no later than October 1, 1993.

Effective date.--The provisions would be effective upon enactment.

18. Cross-Matching of Social Security Account Numbers and Employer Identification Numbers Maintained by the Department of Agriculture (Sec. 217 of House bill)

The Department of Agriculture is allowed to collect and maintain a list of names, Social Security numbers and employer identification numbers of the owners and officers of retail grocery stores which redeem food stamps. The list is used to keep track of grocery store operators who have been sanctioned for violation under the Food Stamp Act.

The provision would permit the Secretary of Agriculture to share the list of names and identifying numbers with other Federal agencies which otherwise have access to Social Security account numbers for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for investigating violations of other Federal laws, or enforcement of such laws. The Secretary of Agriculture must restrict access to Social Security account numbers

Senate Amendment

Conference Agreement

No provision.

obtained pursuant to this provision to officers and employees of the United States whose duties or responsibilities require access for such purposes.

Effective date.--The provision would be effective upon enactment.

**19. Extend on Permanent Basis
General Fund Transfer to
Railroad Tier 2 Fund**
(Sec. 218 of House bill)

A portion of the railroad retirement tier 2 benefits are included in gross income of recipients (similar to the treatment accorded recipients of private pensions) for Federal income tax purposes. The proceeds from the income taxation of railroad tier 2 benefits received prior to October 1, 1992, have been transferred from the General Fund of the Treasury to the railroad retirement account. Proceeds from the income taxation of benefits received after September 30, 1992, remain in the General Fund.

The transfer of proceeds from the income taxation of railroad retirement tier 2 benefits from the General Fund of the Treasury to the railroad retirement account would be made permanent.

Effective date.--The provision would be effective for income taxes on benefits received after September 30, 1992.

Senate Amendment**Conference Agreement**

No provision. [The Senate passed an identical amendment as part of H.R. 11 (102nd Congress).]

Present Law

House Bill

20. Authorize Use of the Social Security Number as the Claim Identification Number for Workers' Compensation Claims Filed With the Department of Labor (Sec. 219 of House bill)

The Privacy Act of 1974 prohibits a Federal agency from using the Social Security number as an identification number unless it is specifically permitted by statute. There is no specific statutory authorization to permit the Department of Labor to use the Social Security number as an identification number.

The provision would amend section 205 of the Social Security Act to permit the Department of Labor to use the Social Security number as the claim identification number for workers' compensation claims.

Effective date.--The provision would be effective upon enactment.

21. Retirement Eligibility for Federal Employees Transferred to International Organizations (Sec. 220 of House bill)

Federal employees participating in the Civil Service Retirement System are entitled to retain retirement coverage rights and benefits when they are temporarily loaned by a Federal agency to an international organization.

The provision would amend section 210 of the Social Security Act and section 3121 of the Internal Revenue Code of 1986 to cover, in certain cases, service performed in the employ of an international organization pursuant to a transfer from a Federal agency

No provision.

No provision.

Present Law**House Bill**

The definition of employment in the Social Security Act prohibits Federal employees participating in the Federal Employees Retirement System (FERS) or the Foreign Service Pension System (FSPS) (which in general provide Federal employees hired on or after January 1, 1984 with both Social Security coverage and a supplemental government pension) from continuing to contribute to Social Security if they transfer to international organizations.

under the definition of employment. Under this provision the employing agency would be responsible for reporting the employee's wages and for paying the employer's share of FICA. The employee would be responsible for paying the employee's share.

Effective date.--The provision would apply with respect to service performed after the calendar quarter following the calendar quarter of enactment.

22. Extend the FICA Tax Exemption and Certain Tax Rules to Individuals Who Enter the United States Under a VISA Issued Under Section 101(A)(15)(Q) of the Immigration and Nationality Act
(Sec. 221 of House bill)

The Mutual Educational and Cultural Exchange Act of 1961 (P.L. 87-256) established section 101(a)(15)(J) of the Immigration and Nationality Act under which so-called J visas are authorized to be issued for a limited period of time to aliens who are bona

The provision amends the Internal Revenue Code to exclude wages paid to aliens holding Q visas from FICA, FUTA, and Railroad Retirement Act taxes, and, for income tax purposes, treats their income in the same manner as income received by aliens holding

Senate Amendment

Conference Agreement

No provision.

Present Law**House Bill**

fide students, scholars, trainees, teachers, professors, research assistants, specialists, or leaders in a field of specialized knowledge or skill.

visas issued pursuant to section 101(a)(15)(J).

The 1961 Act also provided that wages paid to individuals who enter the country on a J visa would be exempt from FICA, FUTA, and Railroad Retirement Act taxes. In addition, employers who hire J visa holders are not required to receive certification from the Department of Labor that an insufficient number of U.S. workers are available to meet their needs.

The Immigration Act of 1990 added section 101(a)(15)(Q), which provides for the issuance of a visa to "an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program approved by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's

Senate Amendment

Conference Agreement

nationality and who will be employed under the same wages and working conditions as domestic workers."

The Internal Revenue Code presently does not exempt wages paid to individuals who enter the U.S. under Q visas from FICA, FUTA, or Railroad Act taxes.

Effective date.--The provision would take effect with the calendar quarter following the date of enactment.

23. Study Rising Cost of Disability Insurance Benefits (Sec. 222 of House bill)

In their 1993 and 1994 annual reports to Congress, the Social Security Board of Trustees reported that, under intermediate economic assumptions, the Disability Insurance Trust Fund would become insolvent during 1995. To address this problem, the Trustees recommended a reallocation of the Social Security payroll tax rate from the OASI Trust Fund to the DI Trust Fund.

In addition, to the reallocation, the Board recommended that a significant research effort be undertaken to establish whether

The Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the Disability Insurance program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and

Senate Amendment

Conference Agreement

No provision.

Present Law

House Bill

higher-than-expected DI program costs are a temporary trend or longer-term phenomenon.

terminations. No later than December 31, 1994, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and making any recommendations for legislative changes which the Secretary determines appropriate. The study would be due no later than December 31, 1994.

Effective date.--Upon enactment.

Senate Amendment

Conference Agreement

Present Law

House Bill

**24. Commission on Childhood
Disability** (Sec. 223
of House bill)

No provision.

The Secretary would be directed to appoint a Commission on the Evaluation of Disability in Children, consisting of not less than 9 but not more than 15 members including recognized experts in relevant fields of medicine; recognized experts in psychology, education and rehabilitation, law or administration of disability programs; and other experts determined appropriate by the Secretary.

The Commission would conduct a study, in consultation with the National Academy of Sciences, on the effect of the current Supplemental Security Income definition of disability, as it applies to children under the age of 18 and their receipt of services, including the effect of using an alternative definition.

The study shall include issues of (1) whether the need by families for assistance in meeting the high costs of medical care for children with serious physical or mental impairments might appropriately be met through expansion of Federal health assistance

Senate Amendment**Conference Agreement**

No provision. [The Finance Committee has reported a similar provision as part of S. 1668.]

programs; (2) the feasibility of providing benefits to children through non-cash means, including vouchers, debit cards, and electronic benefits transfer systems; (3) the extent to which SSA can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity; (4) the feasibility of providing retroactive SSI benefits pursuant to the Zebley decision on a prorated basis or by means of a packaged trust; (5) methods to increase the extent to which benefits are used in the effort to assist the child achieve independence and engage in substantial gainful activity; and (6) such other issues as the Secretary determines appropriate.

The Commission would submit a report on the results of this study, together with any recommendations, to the Committees on Finance and Ways and Means, no later than November 30, 1995.

Effective date.-- Upon enactment.

Senate Amendment

Conference Agreement

**25. Disregard Deemed Income
and Resources of
Ineligible Spouse in
Determining Continued
Eligibility under Section
1619(b)** (Sec. 224 of House
bill)

Under section 1619(a) of the Social Security Act, SSI benefits continue for those working and earning above the substantial gainful activity level, which is currently \$500 per month, as long as there is no medical improvement in the disabling condition. Benefits decline at a rate of \$1 for each additional \$2 earned after disregarding the first \$65 of earned income and the first \$20 of unearned income. In general, the point at which a recipient, who has at least \$20 in monthly unearned income, would be ineligible for cash SSI benefits in a month would be the sum of \$85 plus twice the sum of the Federal benefit and State supplement, if any. In 1994, this "breakeven point" for an individual was \$977 per month without a State supplement. For States with a supplement, the breakeven point increases by \$2 for every \$1 in State supplement.

In determining an individual's eligibility for Medicaid pursuant to section 1619(b), there would be disregarded (in addition to amounts disregarded under current law): (1) the net income of the individual's ineligible spouse to the extent the spouse's net income does not exceed twice the threshold amount determined for the individual, and (2) the ineligible spouse's resources up to the State's spousal impoverishment resource amount (as defined in section 1924(f)(2) of the Social Security Act).

Under section 1619(b), SSI recipients can continue on Medicaid even if their

Senate Amendment

Conference Agreement

No provision.

earnings cause their income to exceed the breakeven point and they no longer receive cash SSI benefits. In some States, so-called 209(b) States, this does not apply. However, in most States, Medicaid continues as long as the SSI recipient: (1) continues to be blind or disabled; (2) except for earnings, continues to meet all of the eligibility requirements (other than income); (3) is seriously inhibited from continuing work by termination of eligibility of Medicaid; and (4) has earnings insufficient to provide a reasonable equivalent to cash SSI benefits, Medicaid, and publicly funded attendant care that would have been available if he or she did not have earnings.

In making determinations on the fourth criterion above, SSA compares the individual's gross earnings to a "threshold" amount. The threshold amount is the sum of the breakeven level for gross earnings of cash benefits for an individual with no other income living in his or her own household plus the average Medicaid expenditures for disabled SSI cash recipients for the State of residence. If the recipient's gross earnings exceed the threshold, an

Senate Amendment

Conference Agreement

individualized threshold is calculated which considers the person's actual Medicaid use, State supplement rate, and publicly funded attendant care.

Under current regulations, twice the "threshold" amount would vary from about \$22,000 to about \$63,000 annually and the spousal impoverishment resource limits would vary from a minimum of \$14,532 to a maximum of \$72,660.

An eligible spouse's income and resources are deemed to include the income and resources of his or her ineligible spouse with whom he or she lives. In some cases, SSI recipients who are working and are eligible for Medicaid under section 1619(b) may become ineligible for Medicaid because they marry a person who has sufficient income to render the SSI recipient ineligible for Medicaid. In other cases, the SSI recipient's ineligible spouse might receive additional income which makes the SSI recipient ineligible for Medicaid under the deeming rules.

Effective date.--October 1, 1995.

Senate Amendment

Conference Agreement

**26. Plans for Achieving
Self-Support not
Disapproved within 60 Days
to be Deemed Approved**
(Sec. 225 of House
bill)

Under a plan to achieve self-support (PASS) certain income and resources are not taken into account in determining eligibility for or the amount of SSI benefits. An approved PASS allows a person who is blind or disabled to set aside the income and resources needed to achieve a work goal. The funds set aside can be used to pay for education, vocational training, or starting a business. The recipient must have a feasible work goal, a specific savings and spending plan, and must provide for a clearly identifiable accounting for the funds which are set aside. The individual must then follow the plan and negotiate revisions as needed.

SSA regulations provide the basic rules for a PASS. Under these rules, the individually designed plan can be for an initial period of at most 18 months, but an 18-month extension can be obtained. For participants engaged in lengthy education or training programs, an additional 12-month extension

A plan for achieving self-support (PASS) would be deemed to be approved if SSA has not acted upon a recipient's application within 60 days and shall be deemed to be approved until 6 months after subsequent disapproval.

Senate Amendment

Conference Agreement

No provision.

can be obtained. All plans must be approved by SSA before the income and resource exclusions can be excluded. If the recipient attains his or her goal, fails to follow the plan, or time expires, the income and resource exclusions are again countable.

Effective date.--January 1, 1995.

27. Temporary Authority to Approve a Limited Number of Plans for Achieving Self-Support that Include Housing Goals (Sec. 226 of House bill)

A PASS allows an SSI recipient to shelter income and resources from limits if the funds are set aside to help him or her achieve a work goal. Funds may be set aside for education, vocational training, or starting a business.

Plans for achieving self-support would be expanded to include housing goals in addition to the current work goals under a 42-month demonstration.

A report on activities under this authority would be due within 12 months after the end of the 5-year period that begins on January 1, 1995.

Effective date.--January 1, 1995.

No provision.

Present Law**House Bill**

**28. Regulations Regarding
Completion of Plans for
Achieving Self-Support**
(Sec. 227 of House
bill)

Under current PASS regulations, an SSI recipient with a PASS may be eligible for its income and resource exclusions for 18 months, followed by two possible extensions of 18 and 12 months, respectively. An individual involved in a lengthy education program, could receive a pass for up to 4 years.

SSA would be required to take into account the difficulty of achieving self-support based on individual needs in determining the time limit on a PASS.

Effective date.--January 1, 1995.

**29. Treatment of Certain
Grant, Scholarship, or
Fellowship Income**
(Sec. 228 of House bill)

Grant, scholarship, and fellowship income are treated as unearned income. The portion of this kind of income that is received for use in paying the cost of tuition and fees at any educational institution is excluded from income.

Grant, scholarship, and fellowship income would be treated as earned income without regard to the purpose of its use.

Effective date.--Applies to eligibility determinations for any month beginning after the second month following the month of enactment.

Senate Amendment

Conference Agreement

No provision.

No provision.

Present Law**House Bill**

**30. SSI Eligibility for
Students Temporarily
Abroad** (Sec. 229 of
House bill)

A recipient who is outside the United States for a full calendar month or more and who is not a child living outside the United States with a parent in the military service, is not eligible for SSI benefits for such month or months. A person who has been outside the United States for 30 consecutive days or more is not considered to be back until he or she has spent 30 consecutive days in the United States. After an absence of 30 consecutive days, SSI eligibility may resume effective with the day following the 30th day of continuous presence in the United States, if the individual continues to meet all other eligibility criteria.

SSI recipients who travel outside the United States would be exempt from the calendar month and 30-day time limit if the absence is (1) temporary, and (2) for the purpose of conducting studies as part of an educational program that is designed to prepare the individual for gainful employment, and is sponsored by a school, college, or university in the United States.

Effective date.--January 1,
1995.

**31. Disregard of
Cost-of-Living Increases
for Continued Eligibility
for Work Incentives**
(Sec. 230 of House bill)

Under section 504 of the Unemployment Compensation Amendments of 1976 (P.L.

This provision amends section 1619(b) of the Social Security Act to explicitly

Senate Amendment

Conference Agreement

No provision.

No provision.

Present Law**House Bill**

94-566), State Medicaid plans are required to provide medical assistance to an individual if he or she: (1) simultaneously received both Social Security and SSI in some month after April 1977; (2) is currently eligible for and receiving OASDI benefits; (3) is currently ineligible for SSI; and (4) receives income that would qualify him or her for SSI after deducting all OASDI cost-of-living adjustment increases received since the last month in which he or she was eligible for both OASDI and SSI. The provision is intended to protect the individual against the loss of Medicaid coverage in many States because of a cost-of-living increase in Social Security benefits. The provision does not explicitly apply to beneficiaries who have Medicaid eligibility under section 1619(b) of the Social Security Act.

extend to SSI beneficiaries receiving Medicaid under section 1619(b) protection against the loss of Medicaid coverage because of a cost-of-living increase in their Social Security benefits.

Effective date.--Applies to eligibility determinations for months after the December 1994.

2. **Expand the Authority of SSA to Prevent, Detect, and Terminate Fraudulent Claims for SSI Benefits** (Sec. 231 of House bill; sec. 306 of Senate amendment)

Senate Amendment

Conference Agreement

Present Law

House Bill

a. Prevention of fraud in the SSI program by translators of foreign languages

No provision.

A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of SSI benefits shall not be regarded as reliable unless the third party, under penalty of perjury, (1) certifies that the translation is accurate, and (2) discloses the nature and scope of the relationship between the third party and the applicant or recipient.

b. Civil monetary penalties in SSI cases involving fraud

Federal law provides broad authority for imposing civil penalties against persons who submit fraudulent claims to the Government. There are two applicable Federal statutes. The Civil False Claims Act (CFCA) requires the Government to use the normal judicial process, whereby the Department of Justice initiates a civil action in Federal Court to impose a penalty. The Program Fraud Civil Remedies Act (PFCRA) authorizes an administrative process under which Federal agencies may impose penalties. These statutes are intended to address fraud from a

The same authority to impose civil penalties as the Secretary of HHS now has under sections 1128A of the Social Security Act involving false claims in the Medicare and Medicaid programs would be provided for the SSI program. SSA would have direct authority, after approval by the Department of Justice, to impose civil penalties when an individual or entity has been involved in submitting or causing to be submitted any statement that the individual knows or should know is false or misleading, or knows or should know omits a material fact. Each offense involving

Senate Amendment

Conference Agreement

No provision.

Present Law**House Bill**

Government-wide perspective, and the process of imposing penalties can be complex and time-consuming. Further, the PFCRA is restricted to initial applications for benefits, in some circumstances, which limits its usefulness for SSI purposes.

the SSI program would be subject to a penalty of not more than \$5,000 and an assessment, in lieu of damages, of not more than twice the amount of benefits paid as a result of such statement or representation. In addition, medical providers or physicians who commit such offenses with respect to the SSI program could be subject to exclusion from participation in the Medicare and Medicaid programs. The process would be similar to that used under section 1128A with respect to false claims in the Medicare and Medicaid programs. SSA would initiate and investigate cases, refer proposed actions to the Department of Justice for review before proceeding, and adjudicate and impose penalties, assessments, or exclusions. As with section 1128A, any person adversely affected by a determination could obtain a review of such determination in the United States Court of Appeals.

c. SSI Fraud Considered a Felony

SSI fraud is punishable by a fine of no more than \$1,000 or a prison term of no more than one year, a misdemeanor.

SSI fraud would be punishable by a fine as determined under the general criminal fine statutes, by a prison term of not more than five years, or both. This provision conforms the specific

Same as House bill.

In addition, title II is amended to provide that any person or other entity who is convicted of a violation involving provision of false

Present Law

House Bill

crime of SSI fraud to the
criminal sanctions currently
available for Social Security
Disability Insurance fraud.

statements or representations, if the violation is committed in the role as, or application to become, a representative payee on behalf of another individual, shall be guilty of a felony and be subject to the same penalties as apply to SSI. In any case in which a court determines that a violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of funds be made to the individual for whom such person or entity was the representative payee.

An individual or entity convicted of a felony under the representative payee requirements of title XVI may not be certified as a payee under title II.

In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under section 208 or section 1632 of the Social Security Act (relating to fraud), the Secretary may exclude such person or entity from participation in any program under title II, V, XVI, XVIII, XIX, and XX of the Social Security Act, and any other Federal program as provided by law.

Present Law

House Bill

d. Authority to redetermine eligibility in disability cases if fraud is involved and to terminate benefits if there is insufficient reliable evidence of disability.

SSA is only permitted to terminate SSI benefits under well-defined conditions, unless the benefits were obtained fraudulently. The statute provides no guidance on the use of this authority.

e. Availability of recipient identifying information from the Inspector General, Social Security Administration

There is no current statutory requirement for the OIG to provide SSI recipient identifying information obtained during a criminal investigation to the SSA for administrative action. Such identifying information is transmitted to the SSA at such time as the OIG believes it appropriate and often not until the conclusion of a

An individual's eligibility for SSI disability benefits shall be immediately redetermined, disregarding any unreliable evidence of disability, if there is reason to believe that fraud was involved in the application for benefits, unless a U.S. Attorney or equivalent State prosecutor certifies, in writing, that to do so would create a substantial risk of jeopardizing any current or anticipated criminal proceeding.

The SSA Inspector General would be required to disclose to SSA recipient identifying information as soon as he has reason to believe that any individual, or group of individuals, have secured SSI benefits in a fraudulent manner. This requirement would not apply if a U.S. Attorney or State prosecutor who has jurisdiction to file a criminal

Senate Amendment

Conference Agreement

Present Law**House Bill**

criminal investigation or a Federal or State criminal prosecutorial process. Consequently, SSI benefits continue to be paid during an active investigation or prosecution based on those benefits having been obtained through fraud.

f. Authority to use available pre-admission immigrant and refugee medical information

No provision.

g. Annual reports on reviews of SSI cases

No provision.

action against any of the parties involved certifies that disclosure of SSI recipient information by the IG would jeopardize the criminal prosecution of the individual who is subject of the investigation.

SSA would be required to request medical information from the Immigration and Naturalization Service and the Centers for Disease Control which they may have with respect to any alien who has applied for SSI benefits to the extent the information is relevant to determining eligibility.

SSA would be required to annually report to the Committee on Ways and Means and the Committee on Finance on the extent to which it has exercised its authority to review SSI cases and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

Senate Amendment

Conference Agreement

h. Effective date

In general, these provisions would take-effect on October 1, 1994. The provisions dealing with civil monetary penalties in SSI cases involving fraud, with the treatment of SSI fraud as a felony, and with annual reports of reviews of SSI cases would be effective upon enactment.

33. Disability Reviews for Children 18 Years of Age
(Sec. 232 of House bill)

Under current law, all disabled Social Security beneficiaries are required to undergo periodic reviews to determine whether they continue to be disabled. There is no comparable provision in the SSI program.

SSA would be required to reevaluate under adult disability criteria the eligibility of children receiving SSI after they reach 18 years old and before they are 19 years old.

(A needy child under the age of 18 years old who has an impairment of comparable severity with that of an adult may be considered disabled and eligible for SSI benefits. To be found disabled, a child must have a medically determinable impairment that substantially reduces his or her ability to independently, appropriately, and effectively engage in age-appropriate

Senate Amendment

Conference Agreement

No provision.

activities. This impairment must be expected to result in death or to last for a continuous period of at least 12 months.

Under the adult disability determination process, individuals whose impairments do not "meet or equal" the listings of impairments in regulations are subjected to an assessment of residual functional capacity. SSA determines whether adults are able to do their past work or whether they are able to do any substantial gainful work. If they cannot do either one, then they are disabled.

Under the disability determination process for children, individuals whose impairments do not "meet or equal" the listings of impairments in regulations are subjected to an individualized functional assessment. This assessment examines whether the children can engage in age-appropriate activities effectively. If it is found that the children's impairments are of comparable severity to an adult's, without assessing

Senate Amendment

Conference Agreement

Present Law

House Bill

past work or ability to do
substantial gainful work, the
children are disabled.)

Effective date.--Applies to
recipients attaining the age of
18 years old in or after the
ninth month following the month
of enactment.

Senate Amendment

Conference Agreement

**34. Continuing Disability
Reviews for all SSI
Recipients (Sec. 233
of House bill)**

Title II of the Social Security Act requires the Secretary of Health and Human Services to conduct periodic continuing disability reviews (CDRs) of disabled beneficiaries. For those beneficiaries whose impairments are not permanent, CDRs must generally be performed every three years. Beneficiaries with permanent disabilities receive CDRs at such times as the Secretary determines appropriate.

CDRs are funded as part of the Social Security Administration's administrative budget, which is subject to annual appropriations.

The provision would require the Secretary to conduct periodic continuing disability reviews on SSI recipients in the same manner as such reviews are currently required for SSDI beneficiaries.

Effective date.--October 1, 1995.

35. Technical Corrections

Title II of the Social Security Act contains a number of typographical errors, erroneous references, circular cross references, inconsistent margination, incorrect punctuation, and references to outdated versions of the

Technical changes would be made to correct inconsistencies in provisions relating to fees for claimant representatives, rounding procedures for indexing certain program amounts, and deemed average total wages, among others.

No provision.

Present Law**House Bill**

Internal Revenue Code. In addition, present law includes certain inconsistent statutory provisions.

These corrections would not change the meaning of any section of the Social Security Act.

Effective date.-- In general, the provision would be effective upon enactment.

○

SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF
1994

AUGUST 4, 1994.—Ordered to be printed

Mr. GIBBONS, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4277]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4277), to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—*This Act may be cited as the "Social Security Independence and Program Improvements Act of 1994".*

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

Sec. 1. Short title and table of contents.

**TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION
AS AN INDEPENDENT AGENCY**

Sec. 101. Establishment of Social Security Administration as an independent agency.

Sec. 102. Commissioner and Deputy Commissioner; other officers.

Sec. 103. Social Security Advisory Board.

Sec. 104. Personnel; budgetary matters; seal of office.

Sec. 105. Transfers to the new Social Security Administration.

Sec. 106. Transition rules.

Sec. 107. Conforming amendments to titles II and XVI of the Social Security Act.

Sec. 108. Additional conforming amendments.

- Sec. 109. *Rules of construction.*
- Sec. 110. *Effective dates.*

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

- Sec. 201. *Restrictions on payment of benefits based on disability to substance abusers.*
- Sec. 202. *Commission on childhood disability.*
- Sec. 203. *Regulations regarding completion of plans for achieving self-support.*
- Sec. 204. *SSI eligibility for students temporarily abroad.*
- Sec. 205. *Disregard of cost-of-living increases for continued eligibility for work incentives.*
- Sec. 206. *Expansion of the authority of the Social Security Administration to prevent, detect, and terminate fraudulent claims for OASDI and SSI benefits.*
- Sec. 207. *Disability review required for SSI recipients who are 18 years of age.*
- Sec. 208. *Continuing disability reviews.*
- Sec. 209. *Exemption from adjustment in pass-along requirements.*

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

- Sec. 301. *Issuance of physical documents in the form of bonds, notes, or certificates to the social security trust funds.*
- Sec. 302. *GAO study regarding telephone access to local offices of the Social Security Administration.*
- Sec. 303. *Expansion of State option to exclude service of election officials or election workers from coverage.*
- Sec. 304. *Use of social security numbers by States and local governments and Federal district courts for jury selection purposes.*
- Sec. 305. *Authorization for all States to extend coverage to State and local police officers and firefighters under existing coverage agreements.*
- Sec. 306. *Limited exemption for Canadian ministers from certain self-employment tax liability.*
- Sec. 307. *Exclusion of totalization benefits from the application of the windfall elimination provision.*
- Sec. 308. *Exclusion of military reservists from application of the government pension offset and windfall elimination provisions.*
- Sec. 309. *Repeal of the facility-of-payment provision.*
- Sec. 310. *Maximum family benefits in guarantee cases.*
- Sec. 311. *Authorization for disclosure of social security information for purposes of public or private epidemiological and similar research.*
- Sec. 312. *Misuse of symbols, emblems, or names in reference to Social Security Administration, Department of Health and Human Services, or Department of the Treasury.*
- Sec. 313. *Increased penalties for unauthorized disclosure of social security information.*
- Sec. 314. *Increase in authorized period for extension of time to file annual earnings report.*
- Sec. 315. *Extension of disability insurance program demonstration project authority.*
- Sec. 316. *Cross-matching of social security account number information and employer identification number information maintained by the Department of Agriculture.*
- Sec. 317. *Certain transfers to railroad retirement account made permanent.*
- Sec. 318. *Authorization for use of social security account numbers by Department of Labor in administration of Federal workers' compensation laws.*
- Sec. 319. *Coverage under FICA of Federal employees transferred temporarily to international organizations.*
- Sec. 320. *Extension of the FICA tax exemption and certain tax rules to individuals who enter the United States under a visa issued under section 101 of the Immigration and Nationality Act.*
- Sec. 321. *Technical and clerical amendments.*

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY.

Section 701 of the Social Security Act (42 U.S.C. 901) is amended to read as follows:

“SOCIAL SECURITY ADMINISTRATION

“SEC. 701. (a) There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (in this title referred to as the ‘Administration’).

“(b) It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER; OTHER OFFICERS.

Section 702 of the Social Security Act (42 U.S.C. 902) is amended to read as follows:

“COMMISSIONER; DEPUTY COMMISSIONER; OTHER OFFICERS

“Commissioner of Social Security

“SEC. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security (in this title referred to as the ‘Commissioner’) who shall be appointed by the President, by and with the advice and consent of the Senate.

“(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

“(3) The Commissioner shall be appointed for a term of 6 years, except that the initial term of office for Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Commissioner’s term of office, such Commissioner may continue in office until the entry upon office of such a successor. A Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. An individual serving in the office of Commissioner may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

“(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

“(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

“(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Ad-

ministration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure—

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX is available to the public.

"Deputy Commissioner of Social Security

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 6 years, except that the initial term of office for the Deputy Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Deputy Commissioner's term of office, such Deputy Commissioner may continue in office until the entry upon office of such a successor. A Deputy Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

"Chief Financial Officer

"(c) There shall be in the Administration a Chief Financial Officer appointed by the Commissioner in accordance with section 901(a)(2) of title 31, United States Code.

"Inspector General

"(d) There shall be in the Administration an Inspector General appointed by the President, by and with the advice and consent of

the Senate, in accordance with section 3(a) of the Inspector General Act of 1978."

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 of the Social Security Act (42 U.S.C. 903) is amended to read as follows:

"SOCIAL SECURITY ADVISORY BOARD

"Establishment of Board

"SEC. 703. (a) *There shall be established a Social Security Advisory Board (in this section referred to as the 'Board').*

"Functions of the Board

"(b) *On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include—*

"(1) *analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;*

"(2) *studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);*

"(3) *making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;*

"(4) *making recommendations with respect to the quality of service that the Administration provides to the public;*

"(5) *making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;*

"(6) *increasing public understanding of the social security system;*

"(7) *making recommendations with respect to a long-range research and program evaluation plan for the Administration;*

"(8) *reviewing and assessing any major studies of social security as may come to the attention of the Board; and*

"(9) *making recommendations with respect to such other matters as the Board determines to be appropriate.*

"Structure and Membership of the Board

"(c)(1) *The Board shall be composed of 7 members who shall be appointed as follows:*

"(A) *3 members shall be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.*

“(B) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

“(C) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

“(2) The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

“Terms of Appointment

“(d) Each member of the Board shall serve for a term of 6 years, except that—

“(1) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

“(2) the terms of service of the members initially appointed under this section shall begin on October 1, 1994, and expire as follows:

“(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

“(i) 2 years;

“(ii) 4 years; and

“(iii) 6 years.

“(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

“(i) 3 years; and

“(ii) 6 years.

“(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

“(i) 4 years; and

“(ii) 5 years.

“Chairman

“(e) A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

“Expenses and Per Diem

“(f) Members of the Board shall serve without compensation, except that, 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.

“Meetings

“(g)(1) The Board shall meet at the call of the Chairman (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

“(2) Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

“Federal Advisory Committee Act

“(h) The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“Personnel

“(i) The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code. The Board shall appoint such additional personnel as the Board determines to be necessary to provide adequate clerical support for the Board, and may compensate such additional personnel without regard to the provisions of title 5, United States Code, relating to the competitive service.

“Authorization of Appropriations

“(j) There are authorized to be appropriated, out of the Federal Disability Insurance Trust Fund, the Federal Old-Age and Survivors Insurance Trust Fund, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.”.

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

(a) IN GENERAL.—Section 704 of the Social Security Act (42 U.S.C. 904) is amended to read as follows:

“ADMINISTRATIVE DUTIES OF THE COMMISSIONER

“Personnel

“SEC. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act, and attorneys and experts may be appointed without regard to the civil service laws. Except as otherwise provided in the preceding sentence or in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

“(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

“(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(2). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

“Budgetary Matters

“(b)(1) The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President’s annual budget for the Administration.

“(2)(A) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

“(B) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

“Employment Restriction

“(c) The total number of positions in the Administration (other than positions established under section 702) which—

“(1) are held by noncareer appointees (within the meaning of section 3132(a)(7) of title 5, United States Code) in the Senior Executive Service, or

“(2) have been determined by the President or the Office of Personnel Management to be of a confidential, policy-determining, policy-making, or policy-advocating character and have been excepted from the competitive service thereby, may not exceed at any time the equivalent of 20 full-time positions.

“Seal of Office

“(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal.

“Data Exchanges

“(e)(1) Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code)—

“(A) the Secretary shall disclose to the Commissioner any record or information requested in writing by the Commissioner for the purpose of administering any program administered by the Commissioner, if records or information of such type were

disclosed to the Commissioner of Social Security in the Department of Health and Human Services under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994; and

“(B) the Commissioner shall disclose to the Secretary or to any State any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994.

“(2) The Commissioner and the Secretary shall enter into an agreement under which the Commissioner provides the Secretary data concerning the quality of the services and information provided to beneficiaries of the programs under titles XVIII and XIX and the administrative services provided by the Social Security Administration in support of such programs. Such agreement shall stipulate the type of data to be provided and the terms and conditions under which the data are to be provided.

“(3) The Commissioner and the Secretary shall periodically review the need for exchanges of information not referred to in paragraph (1) or (2) and shall enter into such agreements as may be necessary and appropriate to provide information to each other or to States in order to meet the programmatic needs of the requesting agencies.

“(4)(A) Any disclosure from a system of records (as defined in section 552a(a)(5) of title 5, United States Code) pursuant to this subsection shall be made as a routine use under subsection (b)(3) of section 552a of such title (unless otherwise authorized under such section 552a).

“(B) Any computerized comparison of records, including matching programs, between the Commissioner and the Secretary shall be conducted in accordance with subsections (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code.

“(5) The Commissioner and the Secretary shall each ensure that timely action is taken to establish any necessary routine uses for disclosures required under paragraph (1) or agreed to pursuant to paragraph (3).”.

(b) REPORT ON SES POSITIONS UNDER COMPREHENSIVE WORK FORCE PLAN.—*Within 60 days after the establishment by the Commissioner of Social Security of the comprehensive work force plan required under section 704(b)(2) of the Social Security Act (as amended by this Act), the Director of the Office of Personnel Management shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report specifying the total number of Senior Executive Services positions authorized for the Social Security Administration in connection with such work force plan.*

(c) EFFECTIVE DATE AND TRANSITION RULE FOR CERTAIN DATA EXCHANGE PROVISIONS.—

(1) *EFFECTIVE DATE.*—Section 704(e)(4) of the Social Security Act (as amended by subsection (a)) shall take effect March 31, 1996.

(2) *TRANSITION RULE.*—Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code), arrangements for disclosure of records or other information, and arrangements for computer matching of records, which were in effect immediately before the date of the enactment of this Act between the Social Security Administration in the Department of Health and Human Services and other components of such Department may continue between the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and such Department during the period beginning on the date of the enactment of this Act and ending March 31, 1996.

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) *FUNCTIONS.*—

(1) *IN GENERAL.*—There are transferred to the Social Security Administration all functions of the Secretary of Health and Human Services with respect to or in support of the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(2) *FUNCTIONS OF OTHER AGENCIES.*—

(A) *IN GENERAL.*—Subject to subparagraph (B), the Social Security Administration shall also perform—

(i) the functions of the Department of Health and Human Services, including functions relating to titles XVIII and XIX of the Social Security Act (including adjudications, subject to final decisions by the Secretary of Health and Human Services), that the Social Security Administration in such Department performed as of immediately before the date of the enactment of this Act, and

(ii) the functions of any other agency for which administrative responsibility was vested in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of this Act.

(B) *RULES GOVERNING CONTINUATION OF FUNCTIONS IN THE ADMINISTRATION.*—The Social Security Administration shall perform, on behalf of the Secretary of Health and Human Services (or the head of any other agency, as applicable), the functions described in subparagraph (A) in accordance with the same financial and other terms in effect on the day before the date of the enactment of this Act, except to the extent that the Commissioner and the Secretary (or other agency head, as applicable) agree to alter such terms pertaining to any such function or to terminate the

performance by the Social Security Administration of any such function.

(b) **PERSONNEL, ASSETS, ETC.—**

(1) **IN GENERAL.—**There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) **UNEXPENDED FUNDS.—**Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally appropriated.

(3) **EMPLOYMENT PROTECTIONS.—**

(A) **IN GENERAL.—**During the 1-year period beginning March 31, 1995,—

(i) the transfer pursuant to this section of any full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such personnel to be separated or reduced in grade or compensation solely as a result of such transfer, and

(ii) except as provided in subparagraph (B), any such personnel who were not employed in the Social Security Administration in the Department of Health and Human Services immediately before the date of the enactment of this Act shall not be subject to directed reassignment to a duty station outside their commuting area.

(B) **SPECIAL RULES.—**

(i) In the case of personnel whose duty station is in the Washington, District of Columbia, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Baltimore, Maryland, commuting area after September 30, 1995.

(ii) In the case of personnel whose duty station is in the Baltimore, Maryland, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Washington, District of Columbia, commuting area after September 30, 1995.

(4) **OFFICE SPACE.—**Notwithstanding section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606), and subject to available appropriations, the Administrator of General Services may, after consultation with the Commissioner of Social Security and under such terms and conditions as the Administrator finds to be in the interests of the United States—

(A) acquire occupiable space in the metropolitan area of Washington, District of Columbia, for housing the Social Security Administration, and

(B) renovate such space as necessary.

(c) **INTER-AGENCY TRANSFER ARRANGEMENT.**—The Secretary of Health and Human Services and the Commissioner of Social Security shall enter into a written inter-agency transfer arrangement (in this subsection referred to as the “arrangement”), which shall be effective March 31, 1995. Transfers made pursuant to this section shall be in accordance with the arrangement, which shall specify the personnel and resources to be transferred as provided under this section. The terms of such arrangement shall be transmitted not later than January 1, 1995, to the Committee on Ways and Means of the House of Representatives, to the Committee on Finance of the Senate, and to the Comptroller General of the United States. Not later than February 15, 1995, the Comptroller General shall submit a report to each such Committee setting forth an evaluation of such arrangement.

SEC. 106. TRANSITION RULES.

(a) **TRANSITION RULES RELATING TO OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION.**—

(1) **APPOINTMENT OF INITIAL COMMISSIONER OF SOCIAL SECURITY.**—The President shall nominate for appointment the initial Commissioner of Social Security to serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) not later than 60 days after the date of the enactment of this Act.

(2) **ASSUMPTION OF OFFICE OF INITIAL COMMISSIONER BEFORE EFFECTIVE DATE OF NEW AGENCY.**—If the appointment of the initial Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this Act) is confirmed by the Senate pursuant to such section 702 before March 31, 1995, the individual shall take office as Commissioner immediately upon confirmation, and, until March 31, 1995, such Commissioner shall perform the functions of the Commissioner of Social Security in the Department of Health and Human Services.

(3) **TREATMENT OF INSPECTOR GENERAL AND OTHER APPOINTMENTS.**—At any time on or after the date of the enactment of this Act, any of the officers provided for in section 702 of the Social Security Act (as amended by this title) and any of the members of the Social Security Advisory Board provided for in section 703 of such Act (as so amended) may be nominated and take office, under the terms and conditions set out in such sections.

(4) **COMPENSATION FOR INITIAL OFFICERS AND BOARD MEMBERS BEFORE EFFECTIVE DATE OF NEW AGENCY.**—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer or employee of the new Social Security Administration and of any member or staff of the

Social Security Advisory Board who takes office pursuant to this subsection before March 31, 1995, until such time as funds for that purpose are otherwise available.

(5) *INTERIM ROLE OF CURRENT COMMISSIONER AFTER EFFECTIVE DATE OF NEW AGENCY.—In the event that, as of March 31, 1995, an individual appointed to serve as the initial Commissioner of Social Security has not taken office, until such initial Commissioner has taken office, the officer serving on March 31, 1995, as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall, while continuing to serve as such Commissioner of Social Security (or Acting Commissioner of Social Security), serve as Commissioner of Social Security (or Acting Commissioner of Social Security, respectively) in the Social Security Administration established under such section 701 and shall assume the powers and duties under such Act (as amended by this Act) of the Commissioner of Social Security in the Social Security Administration as so established under such section 701. In the event that, as of March 31, 1995, the President has not nominated an individual for appointment to the office of Commissioner of Social Security in the Social Security Administration established under such section 701, then the individual serving as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall become the Acting Commissioner of Social Security in the Social Security Administration as so established under such section 701.*

(6) *INTERIM INSPECTOR GENERAL.—The Commissioner of Social Security may appoint an individual to assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under section 701 of the Social Security Act for a period not to exceed 60 days. The Inspector General of the Department of Health and Human Services may, when so requested by the Commissioner, while continuing to serve as Inspector General in such Department, serve as Inspector General of the Social Security Administration established under such section 701 and shall assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under such section 701. The Social Security Administration shall reimburse the Office of Inspector General of the Department of Health and Human Services for costs of any functions performed pursuant to this subsection, from funds available to the Administration at the time the functions are performed. The authority under this paragraph to exercise the powers and duties of the Inspector General shall terminate upon the entry upon office of an Inspector General for the Social Security Administration under the Inspector General Act of 1978.*

(7) *ABOLISHMENT OF OFFICE OF COMMISSIONER OF SOCIAL SECURITY IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective when the initial Commissioner of Social Security of the Social Security Administration established under section 701 of the Social Security Act (as amended by this title)*

takes office pursuant to section 702 of such Act (as so amended)—

(A) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(B) section 5315 of title 5, United States Code, is amended by striking the following:

“Commissioner of Social Security, Department of Health and Human Services.”

(b) **CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.**—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary’s delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before March 31, 1995, shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(c) **CONTINUATION OF PROCEEDINGS.**—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before March 31, 1995, with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(d) **CONTINUATION OF SUITS.**—Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced before March 31, 1995; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer’s official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. In any suit, action, or other proceeding pending immediately before March 31,

1995, the court or hearing officer may at any time, on the motion of the court or hearing officer or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) **CONTINUATION OF PENALTIES.**—This title shall not have the effect of releasing or extinguishing any civil or criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(f) **JUDICIAL REVIEW.**—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title and the amendments made thereby (other than functions performed pursuant to 105(a)(2)) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before March 31, 1995. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(g) **EXERCISE OF FUNCTIONS.**—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

SEC. 107. CONFORMING AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) **IN GENERAL.**—Title II of the Social Security Act (42 U.S.C. 401 et seq.) (other than section 201, section 231(c), section 226, and section 226A) and title XVI of such Act (42 U.S.C. 1382 et seq.) (other than section 1614(f)(2)(B)) are each amended—

(1) by striking, wherever it appears, “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”;

(2) by striking, wherever it appears, “Department of Health and Human Services” and inserting “Social Security Administration”;

(3) by striking, wherever it appears, “Department” (but only if it is not immediately succeeded by the words “of Health and Human Services”, and only if it is used in reference to the Department of Health and Human Services) and inserting “Administration”;

(4) by striking, wherever it appears, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): “Secretary”, “Secretary’s”, “his”, “him”, “he”, “her”, and “she”, and inserting (in the case of the word “Secretary”) “Commissioner of Social Security”, (in the case of the word “Secretary’s”) “Com-

missioner's", (in the case of the word "his") "the Commissioner's", (in the case of the word "him") "the Commissioner", (in the case of the word "her") "the Commissioner" or "the Commissioner's", as may be appropriate, and (in the case of the words "she" or "he") "the Commissioner"; and

(b) AMENDMENTS TO SECTION 201.—

(1) Subsections (a)(3), (a)(4), (b)(1), and (b)(2) of section 201 of such Act (42 U.S.C. 401) are amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(2) Subsections (a)(3) and (b)(1) of section 201 of such Act (42 U.S.C. 401) are amended by striking "such Secretary" and inserting "such Commissioner".

(3) Section 201(c) of such Act (42 U.S.C. 401(c)) is amended—

(A) in the first sentence, by inserting "the Commissioner of Social Security," before "the Secretary of the Treasury"; and

(B) in the fifth sentence, by striking "Commissioner of Social Security" and inserting "Deputy Commissioner of Social Security".

(4) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by the Managing Trustee, the Commissioner of Social Security, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act" and inserting "by the Department of Health and Human Services for the administration of title XVIII of this Act, and by the Department of the Treasury for the administration of titles II and XVIII of this Act";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration"; and

(C) in the matter following clause (ii), by striking "titles II, XVI, and XVIII" in the first sentence and inserting "titles II and XVIII", and by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions

of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.”

(4)(A) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) After the close of each fiscal year—

“(i) the Commissioner of Social Security shall determine—

“(I) the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII for which the Commissioner is responsible and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund of the Treasury,

“(II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund,

“(III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund,

“(IV) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

“(V) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, and

“(ii) the Secretary of Health and Human Services shall determine—

“(I) the portion of the costs, incurred during such fiscal year, of the administration of title XVIII for which the Secretary is responsible, which should have been borne by the general fund of the Treasury,

“(II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

“(III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund.

“(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary shall each certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund of the Treasury, in order to ensure that each of the Trust Funds and the general fund of the Treasury have borne their proper share of the costs, incurred during such fiscal year, for—

“(i) the parts of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible,

“(ii) the parts of the administration of title XVIII for which the Secretary is responsible, and

“(iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)).

The Managing Trustee shall transfer any such amounts in accordance with any certification so made.

“(D) The determinations required under subclauses (IV) and (V) of subparagraph (B)(i) shall be made in accordance with the cost allocation methodology in existence on the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, until such time as the methodology for making the determinations required under such subclauses is revised by agreement of the Commissioner and the Secretary, except that the determination of the amounts to be borne by the general fund of the Treasury with respect to expenditures incurred in carrying out the functions of the Social Security Administration specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4).”

(5) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking “established and maintained by the Secretary of Health and Human Services” and inserting “maintained by the Commissioner of Social Security”, and by striking “Secretary shall furnish” and inserting “Commissioner of Social Security shall furnish”.

(6) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended to read as follows:

“(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, for determining the costs which should be borne by the general fund of the Treasury of carrying out the functions of the Commissioner, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, they may modify the method of determining such costs.”

(7) Section 201(i)(1) of such Act (42 U.S.C. 401(i)(1)) is amended to read as follows:

“(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.”

(8) Subsections (j) and (k) of section 201 of such Act (42 U.S.C. 401) are each amended by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”.

(9) Section 201(l)(3)(B)(iii)(II) of such Act (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking "Secretary" and inserting "Commissioner of Social Security".

(10) Section 201(m)(3) of such Act (42 U.S.C. 401(m)(3)) is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(c) AMENDMENT TO SECTION 231.—Section 231(c) of such Act (42 U.S.C. 431(c)) is amended by striking "Secretary determines" and inserting "Commissioner of Social Security and the Secretary jointly determine".

SEC. 108. ADDITIONAL CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—

(1) Title VII of the Social Security Act (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act. The Secretary may appoint attorneys and experts without regard to the civil service laws."

(2) Section 706 of such Act (42 U.S.C. 907) is repealed. This paragraph shall not apply with respect to the Advisory Council for Social Security appointed in 1994.

(3) Paragraph (2) of section 709(b) of such Act (42 U.S.C. 910(b)) is amended by striking "(as estimated by the Secretary)" and inserting "(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)".

(b) AMENDMENTS TO TITLE XI.—

(1) Section 1101(a) of such Act (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration, except where the context requires otherwise."

(2) Section 1106(a) of such Act (42 U.S.C. 1306(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" each place it appears and inserting "applicable agency";

(C) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

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

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

“(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

“(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.”.

(3) Section 1106(b) of such Act (42 U.S.C. 1306(b)) is amended—

(A) by striking “Secretary” each place it appears and inserting “head of the applicable agency”; and

(B) by striking “Department of Health and Human Services” and inserting “applicable agency”.

(4) Section 1106(c) of such Act (42 U.S.C. 1306(c)) is amended—

(A) by striking “the Secretary” the first place it appears and inserting “the Commissioner of Social Security or the Secretary”; and

(B) by striking “the Secretary” each subsequent place it appears and inserting “such Commissioner or Secretary”.

(5) Section 1106(d) of such Act (added by section 311 of this Act) is amended—

(A) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”;

(B) by striking “Secretary” the second place it appears and inserting “Commissioner”;

(C) by striking “Secretary” the third place it appears and inserting “Commissioner in consultation with the Secretary of Health and Human Services”; and

(D) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

(6) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking “the Secretary of Health and Human Services” and inserting “the Commissioner of Social Security or the Secretary”.

(7) Section 1110 of such Act (42 U.S.C. 1310) is amended—

(A) by striking “he”, “his”, and “him” each place they appear (except in subsection (b)(2)(A)) and inserting “the Commissioner”, “the Commissioner’s”, and “the Commissioner”, respectively;

(B) in subsection (a)(2), by inserting “(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)” after “Secretary”;

(C) in subsection (b)(1)—

(i) by striking “Secretary” each place it appears in the first two sentences and inserting “Commissioner”;

(ii) by striking in the third sentence “determined by the Secretary,” and inserting “determined by the Commissioner with respect to the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI, and by the Secretary with respect to other titles of this Act.”; and

(iii) by striking the fourth sentence and inserting the following new sentences: "If, in order to carry out a project under this subsection, the Commissioner requests a State to make supplementary payments (or the Commissioner makes them pursuant to an agreement under section 1616) to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments, the Commissioner shall reimburse such State for the non-Federal share of such payments from amounts appropriated to carry out title XVI. If, in order to carry out a project under this subsection, the Secretary requests a State to provide medical assistance under its plan approved under title XIX to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such assistance from amounts appropriated to carry out title XVI, which shall be provided by the Commissioner to the Secretary for this purpose.";

(D) in subsection (b)(2), by striking "Secretary" each place it appears and inserting "Commissioner"; and

(E) in subsection (b), by striking paragraph (3).

(8) Subsections (b) and (c) of section 1127 of such Act (42 U.S.C. 1320a-6) are each amended by striking "Secretary" and inserting "Commissioner of Social Security".

(9) Section 1128(f) of such Act (42 U.S.C. 1320a-7(f)) is amended—

(A) in paragraph (1), by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively", and

(B) in paragraph (3), by inserting after "title II" the following: ", except that, in so applying such section and section 205(l), any reference therein to the Commissioner of Social Security shall be considered a reference to the Secretary".

(10)(A) Section 1129 of such Act (added by section 206(b) of this Act) is amended—

(i) by striking "Secretary" each place it appears and inserting "Commissioner of Social Security";

(ii) in subsection (a)(1)—

(I) by striking "exclude, as provided in section 1128," and inserting "recommend that the Secretary exclude, as provided in section 1128,"; and

(II) by striking "and to direct" and all that follows through "determines";

(iii) in subsection (g)—

(I) by striking "Secretary's" and inserting "Commissioner's"; and

(II) by striking “the provisions” and all that follows and inserting the following: “the Commissioner shall notify the Secretary of the final determination and the reasons therefor, and the Secretary shall then notify the entities described in section 1128A(h) of such final determination.”;

(iv) in subsection (k), by inserting “based on a recommendation under subsection (a)” after “section 1128”; and

(v) in subsection (l) (added by section 206(e)(1)), by striking “Department of Health and Human Services” and inserting “Social Security Administration”.

(B) Section 206(g) of this Act is amended—

(i) by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”; and

(ii) by striking “Secretary has exercised” and inserting “Commissioner has exercised”.

(11) Section 1131 of such Act (42 U.S.C. 1320b-1) is amended—

(A) by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”;

(B) in subsection (a)(1)(A), by adding “or” at the end;

(C) in subsection (a)(1)(B), by striking “or” at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

“(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or”; and

(G) in the matter in subsection (a) following paragraph (3) (as so redesignated), by striking “he” and inserting “the Commissioner of Social Security”, by striking “paragraph (1)” and inserting “paragraph (1) or (2)”, by striking “paragraph (2)” and inserting “paragraph (3)”, and by striking “paragraph (1) or (2)(A)” and inserting “paragraph (1), (2), or (3)(A)”.

(12) Section 1140 of such Act (42 U.S.C. 1320b-10) (as amended by section 312 of this Act) is amended—

(A) in subsection (a)(2)—

(i) by inserting “(A)” after “(2)”;;

(ii) by striking “or of the Department of Health and Human Services”;

(iii) by striking “which the Secretary shall prescribe” and inserting “which the Commissioner of Social Security shall prescribe”; and

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

“(B) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.”;

(B) in subsection (b), by striking “the Secretary” and inserting “the Commissioner or the Secretary (as applicable)”;

(C) in subsection (c)(2), by striking “the Secretary” each place it appears and inserting “the Commissioner or the Secretary (as applicable)”;

(D) in subsection (d), by striking “the Office of Inspector General of the Department of Health and Human Services” and inserting “the Office of the Inspector General of the Social Security Administration or the Office of the Inspector General of the Department of Health and Human Services (as appropriate)”.

(13) Section 1141 of such Act (42 U.S.C. 1320b-11) is amended—

(A) by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”;

(B) by striking “Secretary’s” each place it appears and inserting “Commissioner’s”;

(C) in the first sentence of subsection (a), by striking “under the direction of the Commissioner of Social Security,”; and

(D) in subsection (d)(6), by striking “Department of Health Services and inserting “Social Security Administration”.

(14) Section 1155 of such Act (42 U.S.C. 1320c-4) is amended by striking “(to the same extent as is provided in section 205(b))” and all that follows and inserting “(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection.”.

(c) AMENDMENTS TO TITLE XVIII.—

(1) Section 1817 of such Act (42 U.S.C. 1395i) is amended—

(A) in subsection (a), by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”;

(B) in subsection (b), by inserting “the Commissioner of Social Security,” before “the Secretary of the Treasury”; and

(C) in subsection (f), by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(2) Section 1840(a) of such Act (42 U.S.C. 1395s(a)) is amended—

(A) in paragraph (1), by striking “Secretary” and inserting “Commissioner of Social Security”, and by adding at the end the following new sentence: “Such regulations

shall be prescribed after consultation with the Secretary.”; and

(B) in paragraph (2), by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(3) Section 1841(b) of such Act (42 U.S.C. 1395t) is amended by inserting “the Commissioner of Social Security,” before “the Secretary of the Treasury”.

(4) Section 1872 of such Act (42 U.S.C. 1395ii) is amended by inserting after “title II” the following: “, except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(5) Sections 1866(h)(1), 1869(b)(1), and 1881(g)(3) of such Act (42 U.S.C. 1395cc(h)(1), 1395ff(b)(1), 1395rr(g)(3)) are amended by inserting after “section 205(g)” the following: “, except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(6) Section 1876(c)(5)(B) of such Act (42 U.S.C. 1395mm(c)(5)(B)) is amended by adding at the end the following: “In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.”.

(d) AMENDMENTS TO TITLE XIX.—

(1) Section 1902(a)(10)(A)(ii)(XI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XI)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(2) Section 1905(j) of such Act (42 U.S.C. 1396d(j)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(3) Section 1905(q)(2) of such Act (42 U.S.C. 1396d(q)(2)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(4) Section 1910(b)(2) of such Act (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after “section 205(g)” the following: “, except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(5) Section 1918 of such Act (42 U.S.C. 1396q) is amended by inserting after “title II” the following: “, except that, in so applying such subsections, and in applying section 205(l) thereto, with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration

shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(e) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5312 the following new item:

“Commissioner of Social Security, Social Security Administration.”;

(2) by adding at the end of section 5313 the following new item:

“Deputy Commissioner of Social Security, Social Security Administration.”;

(3) by adding at the end of section 5315 the following new item:

“Inspector General, Social Security Administration.”;

(4) by striking “Secretary of Health, Education, and Welfare” each place it appears in section 8141 and inserting “Commissioner of Social Security”; and

(5) by striking “Secretary of Health and Human Services” in section 8347(m)(3) and inserting “Commissioner of Social Security”.

(f) AMENDMENTS TO FOOD STAMP ACT OF 1977.—

(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting “the Commissioner of Social Security and” before “the Secretary of Health and Human Services”.

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding “, the Commissioner of Social Security” after “the Secretary”.

(g) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707(e)(3) of title 14, United States Code, is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(h) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) Subsections (c)(1), (c)(2)(E), (e)(2), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 are amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(2) Section 3121(b)(10)(B) of such Code is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(3) Section 3127 of such Code is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(4) Section 6050F(c)(1)(A) of such Code is amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(5) Subsections (d) and (f) of section 6057 of such Code are amended by striking “Secretary of Health and Human Services”

each place it appears and inserting "Commissioner of Social Security".

(6) Section 6103(l)(5) of such Code is amended—

(A) by striking "DEPARTMENT OF HEALTH AND HUMAN SERVICES" in the heading and inserting "SOCIAL SECURITY ADMINISTRATION"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".

(8) Section 6511(d)(5) of such Code is amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(9)(A) Subsections (b)(2) and (h) of section 9704 of such Code are amended by striking "Secretary of Health and Human Services" and inserting "Commissioner of Social Security".

(B) Section 9706 of such Code is amended—

(i) by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security";

(ii) in such section as amended by clause (i), by striking "Secretary" each place it appears and inserting "Commissioner"; and

(iii) in subsection (d)(3), by striking "Secretary's" and inserting "Commissioner's".

(i) AMENDMENTS TO BLACK LUNG BENEFITS ACT.—

(1) Section 402(c) of the Black Lung Benefits Act (30 U.S.C. 902(c)) is amended by striking "where used in part B" and all that follows through "part C" and insert "where used in part C".

(2) Part B of such Act (30 U.S.C. 921 et seq.) is amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Commissioner of Social Security", and by striking "Secretary" each place it otherwise appears in reference to the Secretary of Health and Human Services and inserting "Commissioner of Social Security".

(3) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking "and the Secretary of Health, Education, and Welfare" and inserting ", the Commissioner of Social Security, and the Secretary of Health and Human Services"; and

(B) in subsection (b), by striking "the Secretary of Health, Education, and Welfare" and inserting "the Commissioner of Social Security".

(4) Section 435 of such Act (30 U.S.C. 945) is amended by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Commissioner of Social Security".

(5) Section 508 of such Act (30 U.S.C. 957) is amended by striking "the Secretary of Health, Education, and Welfare," and inserting "the Secretary of Health and Human Services, the Commissioner of Social Security,".

(j) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—

(1) Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(H) The Social Security Administration.”.

(2) Section 3720A(f)(2) of such title is amended by striking “Secretary of Health and Human Services” each place it appears in and inserting “Commissioner of Social Security”.

(k) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 5105 of title 38, United States Code, is amended—

(1) by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”; and

(2) by striking the second sentence of subsection (b) and inserting the following new sentence: “A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official.”.

(l) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—

(1) Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by striking “and” at the end of such paragraph (V); and

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

“(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and”.

(2) Section 11 of such Act (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting “; or the Commissioner of Social Security, Social Security Administration” before “; as the case may be”; and

(B) in paragraph (2), by inserting “, or the Social Security Administration” before “; as the case may be”.

(m) SECTION 505 OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980.—Section 505 of the Social Security Disability Amendments of 1980 is amended—

(1) in subsection (a), by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”;

(2) in subsection (a)(3), by amending the first sentence to read as follows: “In the case of any experiment or demonstration project under paragraph (1) which is initiated before June 10, 1996, the Commissioner may waive compliance with the benefit requirements of title II of the Social Security Act, and the Sec-

retary of Health and Human Services may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII of such Act, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.”; and

(3) in subsections (a) and (c), by striking “Secretary” each place it otherwise appears and inserting “Commissioner”.

SEC. 109. RULES OF CONSTRUCTION.

(a) **REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department’s functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Social Security Administration.

(b) **REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.**—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary’s functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Commissioner of Social Security pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) **REFERENCES TO OTHER OFFICERS AND EMPLOYEES.**—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee’s functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the officer or employee of the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 110. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as otherwise provided in this title, this title, and the amendments made by such title, shall take effect March 31, 1995.

(b) **TRANSITION RULES.**—Section 106 shall take effect on the date of the enactment of this Act.

(c) **EXCEPTIONS.**—The amendments made by section 103, subsections (b)(4) and (c) of section 105, and subsections (a)(1), (e)(1), (e)(2), (e)(3), and (l)(2) of section 108 shall take effect on the date of the enactment of this Act.

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

SEC. 201. RESTRICTIONS ON PAYMENT OF BENEFITS BASED ON DISABILITY TO SUBSTANCE ABUSERS.

(a) AMENDMENTS RELATING TO BENEFITS BASED ON DISABILITY UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)(1)) is amended—

- (i) by inserting “(A)” after “(j)(1)”;
- (ii) in the last sentence, by inserting “, if the interest of the individual under this title would be served thereby,” after “alternative representative payee or”;
- and
- (iii) by adding at the end the following new subparagraph:

“(B) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability, certification of payment of such benefits to a representative payee shall be deemed to serve the interest of such individual under this title. In any case in which such certification is so deemed under this subparagraph to serve the interest of an individual, the Secretary shall include, in such individual’s notification of entitlement, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary’s determination of such individual’s disability and that the Secretary is therefore required to make a certification of payment of such individual’s benefits to a representative payee.”.

(B) CONFORMING AMENDMENT.—Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 402(j)(2)(D)(ii)(II)) is amended by striking “or under the age of 15” and inserting “, under the age of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability) is eligible for benefits under this title by reason of disability.”.

(C) 90-DAY DELAY IN DEFERRAL OR SUSPENSION OF BENEFITS FOR CURRENT BENEFICIARIES.—In the case of an individual who, as of 180 days after the date of the enactment of this Act, has been determined to be under a disability, if alcoholism or drug addiction is a contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(j)(2)(D) of the Social Security Act, make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph, until such time during such period as the

selection of a representative payee is made pursuant to section 205(j) of such Act.

(D) EFFECTIVE DATE.—

(i) **GENERAL RULE.**—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to benefits paid in months beginning after 180 days after the date of the enactment of this Act.

(ii) **TREATMENT OF CURRENT BENEFICIARIES.**—In any case in which—

(I) an individual is entitled to benefits based on disability (as defined in section 205(j)(7) of the Social Security Act, as amended by this section),

(II) the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and

(III) alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, the amendments made by this paragraph shall apply with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that the Secretary is therefore required to make a certification of payment of such individual's benefits to a representative payee.

(E) STUDY REGARDING FEASIBILITY, COST, AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION.—

(i) **STUDY.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the representative payee program. In such study, the Secretary shall examine—

(I) the feasibility, cost, and equity of requiring representative payees for all individuals entitled to benefits based on disability under title II or XVI of the Social Security Act who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material in any case to the Secretary's determination of disability,

(II) the feasibility, cost, and equity of providing benefits through non-cash means, including (but not limited to) vouchers, debit cards, and electronic benefits transfer systems,

(III) the extent to which child beneficiaries are afflicted by drug addiction or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment, and

(IV) the extent to which children's representative payees are afflicted by drug addiction or alco-

holism, and methods to identify children's representative payees afflicted by drug addiction or alcoholism and to ensure that benefits continue to be provided to beneficiaries appropriately.

(ii) REPORT.—Not later than December 31, 1995, the Secretary shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the findings of the Secretary based on such study. Such report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

(2) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.—

(A) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.—Section 205(j)(2)(C) of such Act (42 U.S.C. 405(j)(2)(C)) is amended by adding at the end the following new clause:

“(v) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, when selecting such individual's representative payee, preference shall be given to—

“(I) a community-based nonprofit social service agency licensed or bonded by the State,

“(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

“(III) a State or local government agency with fiduciary responsibilities, or

“(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,

unless the Secretary determines that selection of a family member would be appropriate.”.

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) ALLOWABLE FEES.—Section 205(j)(4)(A) of such Act (42 U.S.C. 405(j)(4)) is amended—

(I) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(II) by inserting “(i)” after “(4)(A)”;

(III) by striking subclause (II) (as redesignated by subclause (I) of this clause) and inserting the following:

“(II) \$25.00 per month (\$50.00 per month in any case in which the individual is entitled to benefits based on disability and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability).”;

(IV) by inserting, after and below subclause (II) (as amended), the following new sentence:

“The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.”; and

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

“(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom all past-due benefits have not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).”.

(ii) INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.—Section 205(j)(4)(B) of such Act (42 U.S.C. 405(j)(4)(B))) is amended—

(I) by inserting “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any”;

(II) by striking “representative payee and which,” and inserting “representative payee, if such agency,”;

(III) by striking “, and” at the end of clause (ii) and inserting a period; and

(IV) by striking clause (iii).

(iii) RETROACTIVE REPEAL OF SUNSET.—Effective July 1, 1994, section 205(j)(4) of such Act (42 U.S.C. 405(j)(4)) is amended by striking subparagraph (D).

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

“(7) For purposes of this subsection, the term ‘benefit based on disability’ of an individual means a disability insurance benefit of such individual under section 223 or a child’s, widow’s, or widower’s insurance benefit of such individual under section 202 based on such individual’s disability.”.

(D) EFFECTIVE DATE.—Except as provided in subparagraph (B)(iii), the amendments made by this paragraph shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) NONPAYMENT OR TERMINATION OF BENEFITS.—

(A) IN GENERAL.—Section 225 of such Act (42 U.S.C. 425) is amended—

(i) by striking the heading and inserting the following:

"ADDITIONAL RULES RELATING TO BENEFITS BASED ON DISABILITY

"Suspension of Benefits";

(ii) by inserting before subsection (b) the following new heading:

"Continued Payments During Rehabilitation Program";

and

(iii) by adding at the end the following new subsection:

"Nonpayment or Termination of Benefits Where Entitlement Involves Alcoholism or Drug Addiction

"(c)(1)(A) In the case of any individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is under a disability, such individual shall comply with the provisions of this subsection. In any case in which an individual is required to comply with the provisions of this subsection, the Secretary shall include, in such individual's notification of entitlement, a notice informing such individual of such requirement.

"(B) Notwithstanding any other provision of this title, if an individual who is required under subparagraph (A) to comply with the provisions of this subsection is determined by the Secretary not to be in compliance with the provisions of this subsection, such individual's benefits based on disability shall be suspended for a period—

"(i) commencing with the first month following the month in which such individual is notified by the Secretary of the determination of noncompliance and that the individual's benefits will be suspended, and

"(ii) ending with the month preceding the first month, after the determination of noncompliance, in which such individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in paragraph (3).

"(2)(A) An individual described in paragraph (1) is in compliance with the requirements of this subsection for a month if in such month—

"(i) such individual undergoes substance abuse treatment which is appropriate for such individual's condition diagnosed as alcoholism or drug addiction and for the stage of such individual's rehabilitation and which is conducted at an institution or facility approved for purposes of this subsection by the Secretary, and

"(ii) such individual complies in such month with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under paragraph (5).

"(B) An individual described in paragraph (1) may be determined as failing to comply with the requirements of this subsection for a month only if treatment meeting the requirements of subparagraph (A)(i) is available for that month, as determined pursuant to regulations of the Secretary.

“(3) The applicable period specified in this paragraph is—

“(A) 2 consecutive months, in the case of a first determination that an individual is not in compliance with the requirements of this subsection,

“(B) 3 consecutive months, in the case of the second such determination with respect to the individual, or

“(C) 6 consecutive months, in the case of the third or subsequent such determination with respect to the individual.

“(4) In any case in which an individual’s benefit is suspended for a period of 12 consecutive months for failure to comply with treatment described in paragraph (2) of this subsection, the month following such period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement.

“(5)(A) The Secretary shall provide for the monitoring and testing of individuals who are receiving benefits under this title and who as a condition of payment of such benefits are required to be undergoing treatment under paragraph (1) and complying with the terms, conditions, and requirements thereof as described in paragraph (2)(A), in order to assure such compliance.

“(B) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations—

“(i) defining appropriate treatment for alcoholics and drug addicts who are subject to appropriate substance abuse treatment required under this subsection, and

“(ii) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.

“(C)(i) For purposes of carrying out the requirements of subparagraphs (A) and (B), the Secretary shall provide for the establishment of one or more referral and monitoring agencies for each State.

“(ii) Each referral and monitoring agency for a State shall—

“(I) identify appropriate placements, for individuals residing in such State who are entitled to benefits based on disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that they are under a disability, where they may obtain treatment described in paragraph (2)(A),

“(II) refer such individuals to such placements for such treatment, and

“(III) monitor compliance with the requirements of paragraph (2)(A) by individuals who are referred by the agency to such placements and promptly report failures to comply to the Secretary.

“(D) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund such sums as are necessary to carry out the requirements of this paragraph for referral, monitoring, and testing.

“(6)(A) In the case of any individual who is entitled to a benefit based on disability for any month, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability, payment of any past-due

monthly insurance benefits under this title to which such individual is entitled shall be made in any month only to the extent that the sum of—

“(i) the amount of such past-due benefit paid in such month, and

“(ii) the amount of any benefit for the preceding month under such current entitlement which is payable in such month, does not exceed, subject to subparagraph (B), twice the amount of such individual’s benefit for the preceding month (determined without applying any reductions or deductions under this title).

“(B)(i) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom any amount of past-due benefits has not been paid, for purposes of subparagraph (A), such individual’s monthly insurance benefit for such individual’s last month of entitlement shall be treated as such individual’s benefit for the preceding month.

“(ii) For the first month in which an individual’s past-due benefits referred to in subparagraph (A) are paid, the amount of the limitation provided in subparagraph (A) shall be increased by the amount of any debts of such individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for such individual.

“(C) Upon the death of an individual to whom payment of past-due benefits has been limited under subparagraph (A), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 204.

“(D) In the case of an individual who would be entitled to benefits based on disability but for termination of such benefits under paragraph (4) or (7), such individual shall be entitled to payment of past-due benefits under this paragraph as if such individual continued to be entitled to such terminated benefits.

“(7)(A) Subject to subparagraph (B), in the case of any individual entitled to benefits based on disability, if—

“(i) alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that such individual is under a disability, and

“(ii) as of the end of the 36-month period beginning with such individual’s first month of entitlement, such individual would not otherwise be disabled but for alcoholism or drug addiction,

the month following such 36-month period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement. Such individual whose entitlement is terminated under this paragraph may not be entitled to benefits based on disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that such individual is under a disability.

“(B) In determining whether the 36-month period referred to in subparagraph (A) has elapsed—

“(i) a month shall not be taken into account unless the Secretary determines, under regulations of the Secretary, that

treatment required under this subsection is available to the individual for the month, and

“(ii) any month for which a suspension is in effect for the individual under paragraph (1)(B) shall not be taken into account.

“(8) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such disabled individual but for the provisions of paragraph (1), (4), or (7) shall be payable as though such paragraph did not apply.

“(9) For purposes of this subsection, the term ‘benefit based on disability’ of an individual means a disability insurance benefit of such individual under section 223 or a child’s, widow’s, or widower’s insurance benefit of such individual under section 202 based on the disability of such individual.”

(B) REPORT.—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary’s activities under paragraph (5) of section 225(c) of the Social Security Act (as amended by subparagraph (A)). Such report shall include the number and percentage of individuals referred to in such paragraph who have not received regular drug testing since the effective date of such paragraph.

(C) SUNSET OF 36-MONTH RULE.—Section 225(c)(7) of the Social Security Act (added by subparagraph (A)) shall cease to be effective with respect to benefits for months after September 2004.

(D) PRESERVATION OF MEDICARE BENEFITS.—

(i) Section 226 of such Act (42 U.S.C. 426) is amended by adding at the end the following:

“(i) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month.”

(ii) Section 226A of such Act (42 U.S.C. 426A) is amended by adding at the end the following:

“(c) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month.”

(E) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to benefits based on disability (as defined in section 225(c)(9) of the Social Security Act, added by this section) which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this

paragraph not later than 180 days after the date of the enactment of this Act.

(ii) **REFERRAL AND MONITORING AGENCIES.**—Section 225(c)(5) of the Social Security Act (added by this subsection) shall take effect 180 days after the date of the enactment of this Act.

(iii) **TERMINATION AFTER 36 MONTHS.**—Section 225(c)(7) of the Social Security Act (added by this subsection) shall apply with respect to benefits based on disability (as so defined) for months beginning after 180 days after the date of the enactment of this Act.

(F) TRANSITION RULES FOR CURRENT BENEFICIARIES.—In any case in which an individual is entitled to benefits based on disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability—

(i) **TREATMENT REQUIREMENT.**—Paragraphs (1) through (4) of section 225(c) of the Social Security Act (added by this subsection) shall apply only with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that such individual is therefore required to comply with the provisions of section 225(c) of such Act.

(ii) **TERMINATION AFTER 36 MONTHS.**—

(I) **IN GENERAL.**—For purposes of section 225(c)(7) of the Social Security Act (added by this subsection), the first month of entitlement beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of entitlement to such benefits.

(II) **CONCURRENT BENEFICIARIES CURRENTLY UNDER TREATMENT.**—In any case in which the individual is also entitled to benefits under title XVI and, as of 180 days after the date of the enactment of this Act, such individual is undergoing treatment required under section 1611(e)(3) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), the Secretary of Health and Human Services shall notify such individual of the provisions of section 225(c)(7) of the Social Security Act (added by this subsection) not later than 180 days after the date of the enactment of this Act.

(III) **CONCURRENT BENEFICIARIES NOT CURRENTLY UNDER TREATMENT.**—In any case in which the individual is also entitled to benefits under title XVI but, as of 180 days after the date of the enactment of this Act, such individual is not undergoing treatment described in subclause (II), sec-

tion 225(c)(7) (added by this subsection) shall apply only with respect to benefits for months after the month in which treatment required under section 1611(e)(3) of the Social Security Act (as amended by subsection (b)) is available, as determined under regulations of the Secretary of Health and Human Services, and the Secretary notifies such individual of the availability of such treatment and describes in such notification the provisions of section 225(c)(7) of the Social Security Act (added by this subsection).

(4) IRRELEVANCE OF LEGALITY OF SERVICES PERFORMED IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY.—

(A) IN GENERAL.—Section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended—

(i) by inserting “(A)” after “(4)”; and

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

“(B) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, the Secretary shall apply the criteria described in subparagraph (A) with respect to services performed by any individual without regard to the legality of such services.”

(B) CONFORMING AMENDMENT RELATING TO TRIAL WORK.—Section 222(c)(2) of such Act (42 U.S.C. 422(c)(2)) is amended by inserting “(whether legal or illegal)” after “activity”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

(b) AMENDMENTS RELATING TO SUPPLEMENTAL SECURITY INCOME BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

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

(i) in clause (ii)—

(I) by inserting “(I)” after “(ii)”; and

(II) by striking “or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A),”; and

(III) by adding after and below the end the following:

“(II) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual under this title. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Secretary shall include, in the individual’s notification of such eligibility, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual

is disabled and that the Secretary is therefore required to pay the individual's benefits to a representative payee."; and

(ii) in clause (iii), by striking "to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse" and inserting "to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this title would be served thereby, to the individual or eligible spouse".

(B) **CONFORMING AMENDMENT.**—Section 1631(a)(2)(B)(viii)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(viii)(II)) is amended by striking "15 years" and all that follows and inserting "of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled) is eligible for benefits under this title by reason of disability."

(C) **EFFECTIVE DATE.**—The amendments made by this paragraph shall apply with respect to months beginning after 180 days after the date of the enactment of this Act.

(2) **INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.**—

(A) **PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.**—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)), as amended by paragraph (1)(B) of this subsection, is amended—

(i) by redesignating clauses (vii) through (xii) as clauses (viii) through (xiii), respectively;

(ii) by inserting after clause (vi) the following:

"(vii) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, when selecting such individual's representative payee, preference shall be given to—

"(I) a community-based nonprofit social service agency licensed or bonded by the State;

"(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

"(III) a State or local government agency with fiduciary responsibilities; or

"(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,

unless the Secretary determines that selection of a family member would be appropriate.";

(iii) in clause (viii) (as so redesignated), by striking "clause (viii)" and inserting "clause (ix)";

(iv) in clause (ix) (as so redesignated), by striking "(vii)" and inserting "(viii)";

(v) in clause (xiii) (as so redesignated)—

(I) by striking "(xi)" and inserting "(xii)"; and

(II) by striking "(x)" and inserting "(xi)".

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) ALLOWABLE FEES.—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended—

(I) in clause (i)—

(aa) by striking subclause (II) and inserting the following:

“(II) \$25.00 per month (\$50.00 per month in any case in which an individual is eligible for benefits under this title by reason of disability and alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled).”; and

(bb) by inserting after the 1st sentence the following:

“The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.”; and

(II) by adding at the end the following:

“(v) In the case of an individual who is no longer eligible for benefits under this title but to whom any amount of past-due benefits under this title has not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).”

(ii) INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.—Section 1631(a)(2)(D)(ii) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)) is amended—

(I) by inserting “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any”;

(II) by inserting a comma after “service agency”;

(III) by adding “and” at the end of subclause (I); and

(IV) in subclause (II)—

(aa) by adding “and” at the end of item (aa);

(bb) by striking “; and” at the end of item (bb) and inserting a period; and

(cc) by striking item (cc).

(iii) RETROACTIVE REPEAL OF SUNSET.—

(I) REPEAL.—Effective July 1, 1994, section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by striking clause (iv).

(II) CONFORMING AMENDMENT.—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by redesignating clause (v) (as added

by clause (i)(II) of this subparagraph) as clause (iv).

(C) **EFFECTIVE DATE.**—Except as provided in subparagraph (B)(iii)(I), the amendments made by this paragraph shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) **NONPAYMENT OR TERMINATION OF BENEFITS.**—

(A) **IN GENERAL.**—Section 1611(e)(3)(A) of such Act (42 U.S.C. 1382(e)(3)(A)) is amended to read as follows:

“(A)(i)(I) In the case of any individual eligible for benefits under this title solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, the individual shall comply with the provisions of this subparagraph. In any case in which an individual is required to comply with the provisions of this subparagraph, the Secretary shall include in the individual’s notification of such eligibility a notice informing the individual of such requirement.

“(II) Notwithstanding any other provision of this title, if an individual who is required under subclause (I) to comply with the requirements of this subparagraph is determined by the Secretary not to be in compliance with the provisions of this subparagraph, the individual’s benefits under this title by reason of disability shall be suspended for a period—

“(aa) commencing with the first month following the month in which the individual is notified by the Secretary of the determination of noncompliance and that the individual’s benefits will be suspended; and

“(bb) ending with the month preceding the first month, after the determination of noncompliance, in which the individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in clause (iii).

“(ii)(I) An individual described in clause (i) is in compliance with the requirements of this subparagraph for a month if in such month—

“(aa) the individual undergoes substance abuse treatment, which is appropriate for the individual’s condition diagnosed as alcoholism or drug addiction and for the stage of the individual’s rehabilitation and which is conducted at an institution or facility approved for purposes of this subparagraph by the Secretary; and

“(bb) the individual complies in such month with the terms, conditions, and requirements of the treatment and with requirements imposed by the Secretary under this paragraph.

“(II) An individual described in clause (i) may be determined as failing to comply with the requirements of this subparagraph for a month only if treatment meeting the requirements of subclause (I)(aa) is available for the month, as determined pursuant to regulations of the Secretary.

“(iii) The applicable period specified in this clause is—

“(I) 2 consecutive months, in the case of a 1st determination that an individual is not in compliance with the requirements of this subparagraph;

“(II) 3 consecutive months, in the case of the 2nd such determination with respect to the individual; or

“(III) 6 consecutive months, in the case of the 3rd or subsequent such determination with respect to the individual.

“(iv) An individual who is not in compliance with this paragraph for 12 consecutive months shall not be eligible for supplemental security income benefits under this title. The preceding sentence shall not be construed to prevent the individual from reapplying and becoming eligible for such benefits.

“(v)(I) In the case of any individual eligible for benefits under this title by reason of disability, if—

“(aa) alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled; and

“(bb) as of the end of the 36-month period beginning with the 1st month for which such benefits by reason of disability are payable to the individual, the individual would not otherwise be disabled but for alcoholism or drug addiction, the individual shall not be eligible for such benefits by reason of disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction would be a contributing factor material to the Secretary’s determination that the individual is disabled, notwithstanding section 1619(a).

“(II) An individual whose entitlement to benefits under title II based on disability has been terminated by reason of section 225(c)(7) shall not be eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, for any month after the individual’s termination month (within the meaning of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202, as applicable) with respect to such benefits.

“(III) Any month for which a suspension is in effect for the individual under clause (i)(II) shall not be taken into account in determining whether any 36-month period referred to in this clause has elapsed.

“(vi)(I) In the case of any individual who is eligible for benefits under this title for any month solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, payment of any benefits under this title the payment of which is past due shall be made in any month only to the extent that the sum of—

“(aa) the amount of the past-due benefit paid in the month; and

“(bb) the amount of any benefit under this title which is payable to the individual for the month, does not exceed twice the maximum benefit payable under this title to an eligible individual for the preceding month.

“(II) For the first month in which an individual’s past-due benefits referred to in subclause (I) are paid, the amount of the limitation provided in subclause (I) shall be increased by the amount of any debts of the individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for the individual.

“(III) Upon the death of an individual to whom payment of past-due benefits has been limited under subclause (I), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 1631(b)(1)(A).”

“(IV) As used in this clause, the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.”

“(V) In the case of an individual who would be eligible for benefits under this title by reason of disability but for termination of such benefits under clause (iv) or (v), the individual shall be eligible for payment of past-due benefits under this clause as if the individual continued to be eligible for such terminated benefits.”

“(VI) Subclause (I) shall not apply to payments under section 1631(g).”

(B) REFERRAL, MONITORING, AND TREATMENT.—

(i) IN GENERAL.—Section 1611(e)(3)(B) of such Act (42 U.S.C. 1382(e)(3)(B)) is amended—

(I) by inserting “(i)” after “(B)”;

(II) by striking the 2nd sentence; and

(III) by adding after and below the end following:

“(ii) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations—

“(I) defining appropriate treatment for alcoholics and drug addicts who are subject to required appropriate substance abuse treatment under this subparagraph; and

“(II) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.”

“(iii)(I) For purposes of carrying out the requirements of clauses (i) and (ii), the Secretary shall provide for the establishment of 1 or more referral and monitoring agencies for each State.

“(II) Each referral and monitoring agency for a State shall—

“(aa) identify appropriate placements, for individuals residing in the State who are eligible for benefits under this title by reason of disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that they are disabled, where they may obtain treatment described in subparagraph (A)(ii)(I);

“(bb) refer such individuals to such placements for such treatment; and

“(cc) monitor compliance with the requirements of subparagraph (A) by individuals who are referred by the agency to such placements, and promptly report to the Secretary any failure to comply with such requirements.”

(ii) REPORT.—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary’s activities under section 1611(e)(3)(B) of the Social Security Act. The report shall include the number and percentage of individuals

referred to in such paragraph who have not received regular drug testing since the effective date of the amendments made by clause (i) of this subparagraph.

(C) **SUNSET OF 36-MONTH RULE.**—Section 1611(e)(3)(A)(v) of the Social Security Act (added by subparagraph (A) of this paragraph) shall cease to be effective with respect to benefits four months after September 2004.

(D) **PRESERVATION OF MEDICAID BENEFITS.**—Section 1634 of such Act (42 U.S.C. 13283c) is amended by adding at the end the following:

“(e) Each person to whom benefits under this title by reason of disability are not payable for any month solely by reason of clause (i) or (v) of section 1611(e)(3)(A) shall be treated, for purposes of title XIX, as receiving benefits under this title for the month.”

(E) **EFFECTIVE DATE.**—

(i) **IN GENERAL.**—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after such date of enactment.

(ii) **REFERRAL AND MONITORING AGENCIES.**—The amendments made by subparagraph (B) shall take effect 180 days after the date of the enactment of this Act.

(iii) **TERMINATION AFTER 36 MONTHS.**—Clause (v) of section 1611(e)(3)(A) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability for months beginning after 180 days after the date of the enactment of this Act.

(F) **TRANSITION RULES FOR CURRENT BENEFICIARIES.**—In any case in which an individual is eligible for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for purposes of section 1611(e)(3)(A)(v) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph)—

(i) the first month of such eligibility beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of such eligibility; and

(ii) the Secretary shall notify the individual of the requirements of the amendments made by this paragraph no later than 180 days after the date of the enactment of this Act.

(4) IRRELEVANCE OF LEGALITY OF SUBSTANTIAL GAINFUL ACTIVITY.—

(A) **IN GENERAL.**—Section 1614(a)(3)(D) of such Act (42 U.S.C. 1382c(a)(3)(D)) is amended by adding at the end the following: “The Secretary shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.”

(B) **EFFECTIVE DATE.**—The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(c) DEMONSTRATION PROJECTS.—

(1) **IN GENERAL.**—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches with respect to—

(A) individuals who are entitled to disability insurance benefits or child’s, widow’s, or widower’s insurance benefits based on disability under title II of the Social Security Act, and

(B) individuals who are eligible for supplemental security income benefits under title XVI of such Act based solely on disability,

in cases in which alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that individuals are under a disability. The Secretary may include in such demonstration projects individuals who are not described in either subparagraph (A) or subparagraph (B) if the inclusion of such individuals is necessary to determine the efficacy of various monitoring, referral, and treatment approaches for individuals described in subparagraph (A) or (B).

(2) **SCOPE.**—The demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative approaches under consideration while giving assurance that the results derived from the projects will obtain generally in the operation of the programs involved without committing such programs to the adoption of any particular system either locally or nationally.

(3) **FINAL REPORT.**—The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than December 31, 1997, a final report on the demonstration projects carried out under this subsection, together with any related data and materials which the Secretary may consider appropriate. The authority under this section shall terminate upon the transmittal of such final report.

SEC. 202. COMMISSION ON CHILDHOOD DISABILITY.

(a) **ESTABLISHMENT OF COMMISSION.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”)

shall appoint a Commission on the Evaluation of Disability in Children (in this section referred to as the "Commission").

(b) **APPOINTMENT OF MEMBERS.**—(1) The Secretary shall appoint not less than 9 but not more than 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children;

(ii) the study of congenital, genetic, or perinatal disorders in children; or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology;

(ii) education and rehabilitation;

(iii) law;

(iv) the administration of disability programs; and

(v) social insurance (including health insurance); and

(C) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed by January 1, 1995, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chair of the Commission for a term equivalent to the duration of the Commission.

(c) **ADMINISTRATIVE PROVISIONS.**—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee 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 employed intermittently in the Government service.

(d) **ASSISTANCE TO COMMISSION.**—The Commission may engage individuals skilled in medical and other aspects of childhood disability to provide such technical assistance as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) **STUDY BY THE COMMISSION.**—(1) *The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of “disability” under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under such title.*

(2) *The study described in paragraph (1) shall include issues of—*

(A) *whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs;*

(B) *the feasibility of providing benefits to children through noncash means, including but not limited to vouchers, debit cards, and electronic benefit transfer systems;*

(C) *the extent to which the Social Security Administration can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity;*

(D) *alternative ways and providing retroactive supplemental security income benefits to disabled children, including the desirability and feasibility of conserving some portion of such benefits to promote the long-term well-being of such children;*

(E) *the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity;*

(F) *the effects of the supplemental security income program on disabled children and their families; and*

(G) *such other issues that the Secretary determines to be appropriate.*

(f) **REPORT.**—*Not later than November 30, 1995, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.*

SEC. 203. REGULATIONS REGARDING COMPLETION OF PLANS FOR ACHIEVING SELF-SUPPORT.

(a) **IN GENERAL.**—*Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:*

“(d) *The Secretary shall establish by regulation criteria for time limits and other criteria related to individuals’ plans for achieving self-support, that take into account—*

“(1) the length of time that the individual will need to achieve the individual’s employment goal (within such reasonable period as the Secretary may establish); and

“(2) other factors determined by the Secretary to be appropriate.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1, 1995.

SEC. 204. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD.

(a) **IN GENERAL.**—Section 1611(f) of the Social Security Act (42 U.S.C. 1382(f)) is amended—

(1) by inserting “(1)” after “(f)”; and

(2) by adding after and below the end the following:

“(2) For a period of not more than 1 year, the first sentence of paragraph (1) shall not apply to any individual who—

“(A) was eligible to receive a benefit under this title for the month immediately preceding the first month during all of which the individual was outside the United States; and

“(B) demonstrates to the satisfaction of the Secretary that the absence of the individual from the United States will be—

“(i) for not more than 1 year; and

“(ii) for the purpose of conducting studies as part of an educational program that is—

“(I) designed to substantially enhance the ability of the individual to engage in gainful employment;

“(II) sponsored by a school, college, or university in the United States; and

“(III) not available to the individual in the United States.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1, 1995.

SEC. 205. DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED ELIGIBILITY FOR WORK INCENTIVES.

(a) **IN GENERAL.**—Section 1619(b)(1)(B) of the Social Security Act (42 U.S.C. 1382h(b)(1)(B)) is amended by inserting “and increases pursuant to section 215(i) in the level of monthly insurance benefits to which the individual is entitled under title II that occur while such individual is considered to be receiving supplemental security income benefits by reason of this subsection” after “earnings”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to eligibility determinations for months after December 1994.

SEC. 206. EXPANSION OF THE AUTHORITY OF THE SOCIAL SECURITY ADMINISTRATION TO PREVENT, DETECT, AND TERMINATE FRAUDULENT CLAIMS FOR OASDI AND SSI BENEFITS.

(a) **PREVENTION OF FRAUD BY TRANSLATORS OF FOREIGN LANGUAGES.**—

(1) **OASDI PROGRAMS.**—Section 205(c) of the Social Security Act (42 U.S.C. 405(c)) is amended—

(A) by redesignating paragraph (8) as paragraph (9);

and

(B) by inserting after paragraph (7) the following:

“(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of

monthly insurance benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

“(A) certifies that the translation is accurate; and

“(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.”

(2) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

“(4) A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

“(A) certifies that the translation is accurate; and

“(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to translations made on or after October 1, 1994.

(b) CIVIL MONETARY PENALTIES, ASSESSMENTS, AND EXCLUSIONS FOR TITLES II AND XVI.—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following:

“SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLES II AND XVI.

“(a)(1) Any person (including an organization, agency, or other entity) who 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—

“(A) monthly insurance benefits under title II, or

“(B) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth 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 statement or representation. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation. In addition, the Secretary may make a determination in the same proceeding to exclude, as provided in section 1128, such a person who is a medical provider or physician from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program permanently or for such period as the Secretary determines.

“(2) For purposes of this section, a material fact is one which the Secretary may consider in evaluating whether an applicant is entitled to benefits under title II or eligible for benefits or payments under title XVI.

“(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty or assessment, or whether to recommend exclusion under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by the Secretary and the Attorney General. The Secretary may not initiate an action under this section with respect to any violation described in subsection (a) later than 6 years after the date the violation was committed. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

“(2) The Secretary shall not make a determination adverse to any person under this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

“(3) In a proceeding under this section which—

“(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime charging fraud or false statements; and

“(B) involves the same transaction as in the criminal action; the person is estopped from denying the essential elements of the criminal offense.

“(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, for failing to defend an action, or for such other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

“(A) in the case of refusal to provide or permit discovery, drawing negative factual inference or treating such refusal as an admission by deeming the matter, or certain facts, to be established;

“(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

“(C) striking pleadings, in whole or in part;

“(D) staying the proceedings;

“(E) dismissal of the action;

“(F) entering a default judgment;

“(G) ordering the party or attorney to pay attorneys’ fees and other costs caused by the failure or misconduct; and

“(H) refusing to consider any motion or other action which is not filed in a timely manner.

“(c) In determining pursuant to subsection (a) the amount or scope of any penalty or assessment, or whether to recommend an exclusion, the Secretary shall take into account—

“(1) the nature of the statements and representations referred to in subsection (a) and the circumstances under which they occurred;

“(2) the degree of culpability, history of prior offenses, and financial condition of the person committing the offense; and

“(3) such other matters as justice may require.

“(d)(1) Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the statement or representation referred to in subsection (a) was made, by filing in such court (within 60 days following the date the person is notified of the Secretary’s determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

“(2) The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive in the review described in paragraph (1). If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify such findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and the Secretary shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive, and the Secretary’s recommendations, if any, for the modification or setting aside of the Secretary’s original order.

“(3) Upon the filing of the record and the Secretary’s original or modified order with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

“(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered—

“(A) in a civil action in the name of the United States brought in United States district court for the district where the statement or representation referred to in subsection (a) was made, or where the person resides, as determined by the Secretary;

“(B) by means of reduction in tax refunds to which the person is entitled, based on notice to the Secretary of the Treasury

as permitted under section 3720A of title 31, United States Code;

“(C)(i) by decrease of any payment of monthly insurance benefits under title II, notwithstanding section 207, or

“(ii) by decrease of any payment under title XVI for which the person is eligible, notwithstanding section 207, as made applicable to title XVI by reason of section 1631(d)(1);

“(D) by authorities provided under the Debt Collection Act of 1982, as amended, to the extent applicable to debts arising under the Social Security Act;

“(E) by deduction of the amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, from any sum then or later owing by the United States to the person against whom the penalty or assessment has been assessed; or

“(F) by any combination of the foregoing.

“(2) Amounts recovered under this section shall be recovered by the Secretary and shall be disposed of as follows:

“(A) In the case of amounts recovered arising out of a determination relating to title II, the amounts 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 Secretary, and such amounts shall be deposited by the Managing Trustee into such Trust Fund.

“(B) In the case of amounts recovered arising out of a determination relating to title XVI, the amounts shall be deposited by the Secretary into the general fund of the Treasury as miscellaneous receipts.

“(f) A determination pursuant to subsection (a) by the Secretary to impose a penalty or assessment, or to recommend an exclusion shall be final upon the expiration of the 60-day period referred to in subsection (d). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

“(g) Whenever the Secretary’s determination to impose a penalty or assessment under this section with respect to a medical provider or physician becomes final, the provisions of section 1128A(h) shall apply.

“(h) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty and assessment if any such penalty were to be imposed or to seek other appropriate relief.

“(i)(1) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate

the authority granted by section 205(d) (as made applicable to this section) to the Inspector General for purposes of any investigation under this section.

"(2) The Secretary may delegate authority granted under this section to the Inspector General.

"(j) For purposes of this section, the term 'State agency' shall have the same meaning as in section 1128A(i)(1).

"(k) A principal is liable for penalties and assessments under subsection (a), and for an exclusion under section 1128, for the actions of the principal's agent acting within the scope of the agency."

(2) CONFORMING AMENDMENTS.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended—

(A) in subsection (b)(7), by striking "or section 1128B" and inserting ", 1128B, or 1129";

(B) in subsection (b)(8)(B)(ii), by inserting "or 1129" after "section 1128A"; and

(C) in subsection (f)(3), by inserting ", 1129," after "sections 1128A".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994.

(c) SSI FRAUD CONSIDERED A FELONY.—

(1) IN GENERAL.—Section 1632(a) of the Social Security Act (42 U.S.C. 1383a(a)) is amended by striking "shall" the 1st place such term appears and all that follows and inserting "shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both."

(2) CONFORMING AMENDMENT.—Section 1632(b) of such Act (42 U.S.C. 1383a(b)) is amended to read as follows:

"(b)(1) If a person or entity violates subsection (a) in the person's or entity's role as, or in applying to become, a representative payee under section 1631(a)(2) on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.

"(2) Any person or entity convicted of a violation of subsection (a) of this section or of section 208 may not be certified as a representative payee under section 1631(a)(2)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994.

(d) AUTHORITY TO REDETERMINE ELIGIBILITY IF FRAUD IS INVOLVED, AND TO TERMINATE BENEFITS IF THERE IS INSUFFICIENT RELIABLE EVIDENCE.—

(1) OASDI PROGRAMS.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following:

"(u)(1)(A) The Secretary shall immediately redetermine the entitlement of individuals to monthly insurance benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing,

that there is a substantial risk that such action by the Secretary with regard to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

“(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

“(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if—

“(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

“(B) information that is material to the determination is knowingly concealed.

“(3) If, after redetermining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Secretary determines that there is insufficient evidence to support such entitlement, the Secretary may terminate such entitlement and may treat benefits paid on the basis of such insufficient evidence as overpayments.”

(2) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following:

“(6)(A)(i) The Secretary shall immediately redetermine the eligibility of an individual for benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to recipients in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

“(i) When redetermining the eligibility, or making an initial determination of eligibility, of an individual for benefits under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

“(B) For purposes of subparagraph (A), similar fault is involved with respect to a determination if—

“(i) an incorrect or incomplete statement that is material to the determination is knowingly made; or

“(ii) information that is material to the determination is knowingly concealed.

“(C) If, after redetermining the eligibility of an individual for benefits under this title, the Secretary determines that there is insufficient evidence to support such eligibility, the Secretary may terminate such eligibility and may treat benefits paid on the basis of such insufficient evidence as overpayments.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1994, and shall apply to determinations made before, on, or after such date.

(e) AVAILABILITY OF RECIPIENT IDENTIFYING INFORMATION FROM THE INSPECTOR GENERAL.—

(1) *IN GENERAL.*—Section 1129 of the Social Security Act (added by subsection (b) of this section) is amended by adding at the end the following:

“(l) As soon as the Inspector General, Department of Health and Human Services, has reason to believe that fraud was involved in the application of an individual for monthly insurance benefits under title II or for benefits under title XVI, the Inspector General shall make available to the Secretary information identifying the individual, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that making the information so available in a particular investigation or re-determining the eligibility of the individual for such benefits would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.”

(2) *EFFECTIVE DATE.*—The amendment made by paragraph

(1) shall take effect on October 1, 1994.

(f) *AUTHORITY TO USE AVAILABLE PREAMMISSION IMMIGRANT AND REFUGEE MEDICAL INFORMATION.*—

(1) *IN GENERAL.*—Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) as amended by subsection (d)(2) of this section, is amended by adding at the end the following:

“(7)(A) The Secretary shall request the Immigration and Naturalization Service or the Centers for Disease Control to provide the Secretary with whatever medical information, identification information, and employment history either such entity has with respect to any alien who has applied for benefits under title XVI to the extent that the information is relevant to any determination relating to eligibility for such benefits under title XVI.

“(B) Subparagraph (A) shall not be construed to prevent the Secretary from adjudicating the case before receiving such information.”

(2) *EFFECTIVE DATE.*—The amendment made by paragraph

(1) shall take effect on October 1, 1994.

(g) *ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI CASES.*—

The Secretary of Health and Human Services shall annually 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 extent to which the Secretary has exercised his authority to review cases of entitlement to monthly insurance benefits under title II of the Social Security Act and supplemental security income cases under title XVI of such Act, and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

SEC. 207. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE.

(a) *DISABILITY REVIEW REQUIREMENT.*—

(1) *IN GENERAL.*—The applicable State agency or the Secretary of Health and Human Services (as may be appropriate) shall redetermine the eligibility of a qualified individual for supplemental security benefits under title XVI of the Social Security Act by reason of disability, by applying the criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age.

(2) *WHEN CONDUCTED.*—The redetermination required by paragraph (1) with respect to a qualified individual shall be conducted during the 1-year period that begins on the date the qualified individual attains 18 years of age.

(3) *MINIMUM NUMBER OF REVIEWS.*—The Secretary shall conduct redeterminations under paragraph (1) with respect to not less than $\frac{1}{3}$ of qualified individuals in each of fiscal years 1996, 1997, and 1998.

(4) *QUALIFIED INDIVIDUAL DEFINED.*—As used in this paragraph, the term “qualified individual” means a recipient of supplemental security income benefits under title XVI of the Social Security Act by reason of disability who attains 18 years of age in or after the 9th month after the month in which this Act is enacted.

(5) *SUBSTITUTE FOR A CONTINUING DISABILITY REVIEW.*—A redetermination under paragraph (1) of this subsection shall be considered a substitute for a review required under section 1614(a)(3)(G) of the Social Security Act.

(6) *SUNSET.*—Paragraph (1) shall have no force or effect after October 1, 1998.

(b) *REPORT TO THE CONGRESS.*—Not later than October 1, 1998, the Secretary of Health and Human Services 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 activities conducted under subsection (a).

SEC. 208. CONTINUING DISABILITY REVIEWS.

(a) *TEMPORARY ANNUAL MINIMUM NUMBER OF REVIEWS.*—During each year of the 3-year period that begins on October 1, 1995, the Secretary of Health and Human Services shall apply section 221(i) of the Social Security Act in making disability determinations under title XVI of such Act with respect to at least 100,000 recipients of supplemental security income benefits under such title.

(b) *REPORT TO THE CONGRESS.*—Not later than October 1, 1998, the Secretary of Health and Human Services 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 activities conducted under subsection (a).

SEC. 209. EXEMPTION FROM ADJUSTMENT IN PASS-ALONG REQUIREMENTS.

(a) *IN GENERAL.*—Section 1618(b) of the Social Security Act (42 U.S.C. 1382g(b)) is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2) For purposes of determining under paragraph (1) whether a State’s expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than the State’s expenditures for such payments in the preceding 12-month period, the Secretary, in computing the State’s expenditures, shall disregard, pursuant to a 1-time election of the State, all expenditures by the State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental

security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.”

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply with respect to increases in the level of supplemental security income benefits under title XVI of the Social Security Act whether occurring before, on, or after the date of the enactment of this Act.

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

SEC. 301. ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS.

(a) **REQUIREMENT THAT OBLIGATIONS ISSUED TO THE OASDI TRUST FUNDS BE EVIDENCED BY PAPER INSTRUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES OF INDEBTEDNESS SETTING FORTH THEIR TERMS.**—Section 201(d) of the Social Security Act (42 U.S.C. 401(d)) is amended by inserting after the fifth sentence the following new sentence: “Each obligation issued for purchase by the Trust Funds under this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.”

(b) **PAYMENT TO THE OASDI TRUST FUNDS FROM THE GENERAL FUND OF THE TREASURY OF INTEREST ON OBLIGATIONS, AND OF PROCEEDS FROM THE SALE OR REDEMPTION OF OBLIGATIONS, REQUIRED TO BE IN THE FORM OF CHECKS.**—Section 201(f) of such Act (42 U.S.C. 401(f)) is amended by adding at the end the following new sentence: “Payment from the general fund of the the Treasury to either of the Trust Funds of any such interest or proceeds shall be in the form of paper checks drawn on such general fund to the order of such Trust Fund.”

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to obligations issued, and payments made, after 60 days after the date of the enactment of this Act.

(2) **TREATMENT OF OUTSTANDING OBLIGATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, a paper instrument, in the form of a bond, note, or certificate of indebtedness, for each obligation which has been issued to the Trust Fund under section 201(d) of the Social Security Act and which is outstanding as of such date. Each such document shall set forth the principal amount, date of maturity, and interest rate of the obligation, and shall state on its face that the obligation shall be in-

contestable in the hands of the Trust Fund to which it was issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.

SEC. 302. GAO STUDY REGARDING TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) *STUDY.*—The Comptroller General of the United States shall conduct a study of telephone access to local offices of the Social Security Administration.

(b) *MATTERS TO BE STUDIED.*—In conducting the study under this section, the Comptroller General shall make an independent assessment of the Social Security Administration's use of innovative technology (including attendant call and voice mail) to increase public telephone access to local offices of the Administration. Such study shall include—

(1) *an assessment of the aggregate impact of such technology on public access to the local offices, and*

(2) *a separate assessment of the impact of such technology on public access to those local offices to which access was restricted on October 1, 1989.*

(c) *REPORT.*—Not later than January 31, 1996, the Comptroller General shall submit a report on the results of the study conducted pursuant to this section to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 303. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) *LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.*—

(1) *AMENDMENT TO SOCIAL SECURITY ACT.*—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "\$100" and inserting "\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(2) *AMENDMENT TO FICA.*—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking "\$100" and inserting "\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year".

(b) *CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.*—

(1) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(2) **AMENDMENT TO FICA.**—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(c) **AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.**—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking “on or after January 1, 1968,” and inserting “at any time”;

(2) by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”; and

(3) by striking the last sentence and inserting the following new sentence: “Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.”

(d) **INDEXATION OF EXEMPT AMOUNT.**—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting “(A)” after “(8)”; and

(2) by adding at the end the following new subparagraph:
“(B) For each year after 1999, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

“(i) for purposes of this subparagraph, 1997 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

“(ii) such amount as so adjusted, if not a multiple of \$100, shall be rounded to the next higher multiple of \$100 where such amount is a multiple of \$50 and to the nearest multiple of \$100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not

later than November 1 preceding the year for which the adjustment is made.”.

(e) **EFFECTIVE DATE.**—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1995.

SEC. 304. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) **IN GENERAL.**—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking “(E)” in the matter preceding subclause (I) and inserting “(F)”;

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

(3) by inserting after subparagraph (D) the following:

“(E)(i) It is the policy of the United States that—

“(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

“(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

“(ii) The additional purposes described in this clause are the following:

“(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

“(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

“(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

“(iv) For purposes of this subparagraph, the term ‘State’ has the meaning such term has in subparagraph (D).”.

(b) **CONFORMING AMENDMENT.**—Section 1140(a)(2) of such Act (42 U.S.C. 1320b-10(a)(2)) is amended by striking “205(c)(2)(E)” and inserting “205(c)(2)(F)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 305. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICE OFFICERS AND FIREFIGHTERS UNDER EXISTING COVERAGE AGREEMENTS.

(a) **IN GENERAL.**—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking “(1)” after “(l)”, and by striking “the State of” and all that follows through “prior to the date of enactment of this subsection” and inserting “a State entered into pursuant to this section”; and

(2) by striking paragraph (2).

(b) **CONFORMING AMENDMENT.**—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking “agreements with the States named in” and inserting “State agreements modified as provided in”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act.

SEC. 306. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) **PERIOD FOR FILING.**—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) **TAXABLE YEARS AFFECTED BY CERTIFICATE.**—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) **RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.**—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services (prior to March 31, 1995) or the Commissioner of Social Security (after March 30, 1995) shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 307. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) **IN GENERAL.**—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking “but excluding” and all that follows through “1937” and inserting “but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233”; and

(2) in subparagraph (E), by inserting after “in the case of an individual” the following: “whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual”.

(b) **CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.**—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking “but excluding” and all that follows through “1937” and inserting “but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after December 1994.

SEC. 308. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) **EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.**—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking “unless subparagraph (B) applies.”;

(2) in subparagraph (A), by striking “The” in the matter following clause (ii) and inserting “unless subparagraph (B) applies. The”; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

“(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).”.

(b) **EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.**—Section 215(a)(7)(A) of such Act (as amended by section 307(a) of this Act) and section 215(d)(3) of such Act (as amended by section 307(b) of this Act) are each further amended—

(1) by striking “and” before “(II)”; and

(2) by striking “section 233” and inserting “section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security

Act) with respect to benefits payable for months after December 1994.

SEC. 309. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) **REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.**—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) **COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.**—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking “section 222(b). Whenever” and inserting the following: “section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

“(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

“(B) who does not live in the same household as such individual, and

“(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section, shall be made before the suspension under subsection (h)(3). Whenever”.

(c) **CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.**—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking “Such report need not be made” and all that follows through “The Secretary may grant” and inserting the following: “Such report need not be made for any taxable year—

“(i) beginning with or after the month in which such individual attained age 70, or

“(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

“(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

“(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

“(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant”.

(d) **CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF REPEAL.**—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) **EFFECTIVE DATES.**—

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1995.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1995, in taxable years ending after such date.

SEC. 310. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) **IN GENERAL.**—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

(10)(A) Subject to subparagraphs (B) and (C)—

(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and

(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

(B) In any case in which—

(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978."

(b) **CONFORMING AMENDMENT.**—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking "Subject to paragraph (7)," and inserting "Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who—

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after December 1995.

SEC. 311. AUTHORIZATION FOR DISCLOSURE OF SOCIAL SECURITY INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) **IN GENERAL.**—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

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

(2) in subsection (f) (as so redesignated), by striking “subsection (d)” and inserting “subsection (e)”; and

(3) by inserting after subsection (c) the following new subsection:

“(d) Notwithstanding any other provision of this section, in any case in which—

“(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

“(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).”.

(b) **AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.**—Section 6103(l)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking “for the purpose of” and inserting “for the purpose of—”;

(2) by striking “carrying out, in accordance with an agreement” and inserting the following:

“(A) carrying out, in accordance with an agreement”;

(3) by striking “program.” and inserting “program; or”;

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

“(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.”.

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 312. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY ADMINISTRATION OR DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) *PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.*—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b-10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” after “(a)”; and

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

“(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.”.

(b) *ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.*—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking “‘Administration’, the letters ‘SSA’ or ‘HCFA’,” and inserting “‘Administration’, ‘Department of Health and Human Services’, ‘Health and Human Services’, ‘Supplemental Security Income Program’, or ‘Medicaid’, the letters ‘SSA’, ‘HCFA’, ‘DHHS’, ‘HHS’, or ‘SSI’,”; and

(2) in subparagraph (B) (as amended by section 304 and as redesignated), by striking “Social Security Administration” each place it appears and inserting “Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services”, by striking “or of the Health Care Financing Administration”, and by inserting “or the Medicare card,” after “205(c)(2)(F)”.

(c) *EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.*—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: “The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.”.

(d) *INCLUSION OF REASONABLENESS STANDARD.*—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking “convey” and inserting “convey, or in a manner which reasonably could be interpreted or construed as conveying,”.

(e) **INEFFECTIVENESS OF DISCLAIMERS.**—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

“(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.”

(f) **VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.**—Section 1140(b)(1) of such Act (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: “In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.”

(g) **ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.**—

(1) **REPEAL.**—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) **CONFORMING AMENDMENTS.**—Section 1140(b) of such Act is further amended—

(A) by striking “(1) Subject to paragraph (2), the” and inserting “The”;

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking “subparagraph (B)” and inserting “paragraph (2)”.

(h) **REMOVAL OF FORMAL DECLINATION REQUIREMENT.**—Section 1140(c)(1) of such Act (42 U.S.C. 1320b-10(c)(1)) is amended by inserting “and the first sentence of subsection (c)” after “and (i)”.

(i) **PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND, AND PENALTIES RELATED TO HEALTH CARE FINANCING ADMINISTRATION DEPOSITED IN THE HI AND SMI TRUST FUNDS.**—Section 1140(c)(2) of such Act (42 U.S.C. 1320b-10(c)(2)) is amended in the second sentence by striking “United States.” and inserting “United States, except that (A) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivors Insurance Trust Fund, and (B) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Department of Health and Human Services, such amounts shall be deposited into the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, as appropriate.”

(j) **ENFORCEMENT.**—Section 1140 of such Act (42 U.S.C. 1320b-10) is amended by adding at the end the following new subsection:
 “(d) The preceding provisions of this section may be enforced through the Office of the Inspector General of the Department of Health and Human Services.”

(k) **REPORTS.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services and the Commissioner of Social Security shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 3 reports on the operation of section 1140 of the Social Security Act with respect to the Social Security Administration or the Department of Health and Human Services during the period covered by the report, which shall specify—

(A) the number of complaints of violations of such section received by the Social Security Administration or the Department of Health and Human Services during the period,

(B) the number of cases in which the Social Security Administration or the Department, during the period, sent a notice of violation of such section requesting that an individual cease activities in violation of such section,

(C) the number of cases in which the Social Security Administration or the Department formally proposed a civil money penalty in a demand letter during the period,

(D) the total amount of civil money penalties assessed by the Social Security Administration or the Department under this section during the period,

(E) the number of requests for hearings filed during the period by the Social Security Administration or the Department pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act,

(F) the disposition during the period of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act, and

(G) the total amount of civil money penalties collected under this section and deposited into the Federal Old-Age and Survivors Insurance Trust Fund or the Health Insurance and Supplementary Medical Insurance Trust Funds, as applicable, during the period.

(2) **WHEN DUE.**—The reports required by paragraph (1) shall be submitted not later than December 1, 1995, not later than December 1, 1997, and not later than December 1, 1999, respectively.

(l) **PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.**—

(1) **GENERAL RULE.**—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

“§333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

“(a) **GENERAL RULE.**—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or

product, whether alone or with other words, letters, symbols, or emblems—

“(1) the words ‘Department of the Treasury’, or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

“(2) the titles ‘Secretary of the Treasury’ or ‘Treasurer of the United States’ or the title of any other officer or employee of the Department of the Treasury,

“(3) the abbreviations or initials of any entity referred to in paragraph (1),

“(4) the words ‘United States Savings Bond’ or the name of any other obligation issued by the Department of the Treasury,

“(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

“(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

“(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

“(c) CIVIL PENALTY.—

“(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

“(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed \$5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘\$25,000’ for ‘\$5,000’.

“(3) TIME LIMITATIONS.—

“(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

“(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

“(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

“(d) CRIMINAL PENALTY.—

“(1) *IN GENERAL.*—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than \$10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘\$50,000’ for ‘\$10,000’.

“(2) *TIME LIMITATIONS.*—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

“(3) *COORDINATION WITH SUBSECTION (c).*—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.”

(2) *CLERICAL AMENDMENT.*—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

“333. *Prohibition of misuse of Department of the Treasury names, symbols, etc.*”.

(3) *REPORT.*—Not later than May 1, 1996, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

(m) *EFFECTIVE DATE.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations occurring after March 31, 1995.

(2) *PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.*—Subsection (l)(3) shall take effect on the date of the enactment of this Act, and the amendments made by paragraphs (1) and (2) of subsection (l) shall apply with respect to violations occurring after such date.

SEC. 313. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) *UNAUTHORIZED DISCLOSURE.*—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking “misdemeanor” and inserting “felony”;

(2) by striking “\$1,000” and inserting “\$10,000 for each occurrence of a violation”; and

(3) by striking “one year” and inserting “5 years”.

(b) *UNAUTHORIZED DISCLOSURE BY FRAUD.*—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting “social security account number,” after “information as to the”;

(2) by striking “misdemeanor” and inserting “felony”;

(3) by striking “\$1,000” and inserting “\$10,000 for each occurrence of a violation”; and

(4) by striking "one year" and inserting "5 years".

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 314. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) **IN GENERAL.**—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking "three months" and inserting "four months".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1994.

SEC. 315. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) **IN GENERAL.**—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96-265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and section 5120 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), is further amended—

(1) in paragraph (3) of subsection (a), by striking "June 10, 1993" and inserting "June 10, 1996";

(2) in paragraph (4) of subsection (a), by striking "1992" and inserting "1995"; and

(3) in subsection (c), by striking "October 1, 1993" and inserting "October 1, 1996".

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 316. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) **SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.**—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3791)) is amended—

(1) by inserting "(I)" after "(iii)"; and

(2) by striking "The Secretary of Agriculture shall restrict" and all that follows and inserting the following:

"(II) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of in-

investigation of violations of other Federal laws or enforcement of such laws.

“(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

“(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.”

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) SHARING OF INFORMATION AND SAFEGUARDS.—

“(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

“(B) SAFEGUARDS.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.”

(2) in paragraph (3), by striking “by the Secretary of Agriculture pursuant to this subsection” and inserting “pursuant to

this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)", and by striking "social security account numbers" and inserting "employer identification numbers"; and

(3) in paragraph (4), by striking "by the Secretary of Agriculture pursuant to this subsection" and inserting "pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)".

SEC. 317. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 318. AUTHORIZATION FOR USE OF SOCIAL SECURITY ACCOUNT NUMBERS BY DEPARTMENT OF LABOR IN ADMINISTRATION OF FEDERAL WORKERS' COMPENSATION LAWS.

Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

"(ix) In the administration of the provisions of chapter 81 of title 5, United States Code, and the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), the Secretary of Labor may require by regulation that any person filing a notice of injury or a claim for benefits under such provisions provide as part of such notice or claim such person's social security account number, subject to the requirements of this clause. No officer or employee of the Department of Labor shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such provisions. The Secretary of Labor shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of such provisions. The Secretary of Labor shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers."

SEC. 319. COVERAGE UNDER FICA OF FEDERAL EMPLOYEES TRANSFERRED TEMPORARILY TO INTERNATIONAL ORGANIZATIONS.

(a) TREATMENT OF SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

"(y) SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

"(1) IN GENERAL.—For purposes of this chapter, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such

international organization pursuant to section 3582 of title 5, United States Code, shall constitute 'employment' if—

“(A) immediately before such transfer, such individual performed service with a Federal agency which constituted 'employment' under subsection (b) for purposes of the taxes imposed by sections 3101(a) and 3111(a), and

“(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) FEDERAL AGENCY.—The term 'Federal agency' means an agency, as defined in section 3581(1) of title 5, United States Code.

“(B) INTERNATIONAL ORGANIZATION.—The term 'international organization' has the meaning provided such term by section 3581(3) of title 5, United States Code.”

(2) CONTRIBUTIONS BY FEDERAL AGENCY.—Section 3122 of such Code (relating to Federal service) is amended by inserting after the first sentence the following new sentence: “In the case of the taxes imposed by this chapter with respect to service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency from which the transfer was made.”

(3) COLLECTION OF EMPLOYEE CONTRIBUTIONS.—Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end the following new subsection:

“(e) SPECIAL RULE FOR CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—In the case of any payments of wages for service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable—

“(1) subsection (a) shall not apply,

“(2) the head of the Federal agency from which the transfer was made shall separately include on the statement required under section 6051—

“(A) the amount determined to be the amount of the wages for such service, and

“(B) the amount of the tax imposed by section 3101 on such payments, and

“(3) the tax imposed by section 3101 on such payments shall be paid by the employee.”

(4) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Paragraph (2)(C) of section 1402(c) of such Code (defining trade or business) is amended by adding at the end the following: “except service which constitutes 'employment' under section 3121(y).”

(5) CONFORMING AMENDMENT.—Paragraph (15) of section 3121(b) of such Code is amended by inserting “, except service which constitutes 'employment' under subsection (y)” after “organization”.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—Section 210 of the Social Security Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

“SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES

“(r)(1) For purposes of this title, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5, United States Code, shall constitute ‘employment’ if—

“(A) immediately before such transfer, such individual performed service with a Federal agency which constituted ‘employment’ as defined in subsection (a), and

“(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

“(2) For purposes of this subsection:

“(A) The term ‘Federal agency’ means an agency, as defined in section 3581(1) of title 5, United States Code.

“(B) The term ‘international organization’ has the meaning provided such term by section 3581(3) of title 5, United States Code.”

(2) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Section 211(c)(2)(C) of such Act (42 U.S.C. 411(c)(2)(C)) is amended by inserting before the semicolon the following “, except service which constitutes ‘employment’ under section 210(r)”.

(3) CONFORMING AMENDMENT.—Section 210(a)(15) of such Act (42 U.S.C. 410(a)(15)) is amended by inserting “, except service which constitutes ‘employment’ under subsection (r)” before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the calendar quarter following the calendar quarter in which the date of the enactment of this Act occurs.

SEC. 320. EXTENSION OF THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101 OF THE IMMIGRATION AND NATIONALITY ACT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking “(J), or (M)” each place it appears and inserting “(J), (M), or (Q)”:

(A) Section 871(c).

(B) Section 1441(b).

(C) Section 3121(b)(19).

(D) Section 3231(e)(1).

(E) Section 3306(c)(19).

(2) Paragraph (3) of section 872(b) of such Code is amended by striking “(F) or (J)” and inserting “(F), (J), or (Q)”.

(3) Paragraph (5) of section 7701(b) of such Code is amended by striking "subparagraph (J)" in subparagraphs (C)(i) and (D)(i)(II) and inserting "subparagraph (J) or (Q)".

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Paragraph (19) of section 210(a) of the Social Security Act is amended by striking "(J), or (M)" each place it appears and inserting "(J), (M), or (Q)".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect with the calendar quarter following the date of the enactment of this Act.

SEC. 321. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking "and and" and inserting "and".

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end, and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking "parargaph" and inserting "paragraph".

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting "if the" before "Secretary" the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking "non-public" and inserting "nonpublic".

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101-624;

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101-624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101-624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking "subclause (I) of", and by striking "subclause (II) of clause (i)" and inserting "clause (ii)"; and

(D) in clause (viii)(IV) (as redesignated), by inserting "a social security account number or" before "a request for".

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

“Representative Payees”.

(11) *The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:*

“Notice Requirements”.

(12) *Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking “subsection (g)” and inserting “subsection (a)(7)”.*

(13) *Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking “section 105(e)(2)” and inserting “section 104(e)(2)”.*

(14) *Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—*

(A) in paragraph (13), by striking “and” at the end; and

(B) in paragraph (14), by striking the period and inserting “; and”.

(15) *Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking “section” the first place it appears and inserting “sections”.*

(16) *Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking “subsection” the second place it appears and inserting “subsections”.*

(17) *Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after “1990”.*

(18) *Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.*

(19) *Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:*

“Limitation on Payments to Prisoners”.

(b) *RELATED AMENDMENTS.—*

(1) *Section 603(b)(5)(A) of Public Law 101-649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting “under” before “paragraph (1),” and by striking “(17), or (18)” and inserting “(17), (18), or (19)”, effective as if this paragraph were included in such section 603(b)(5)(A).*

(2) *Section 10208(b)(1) of Public Law 101-239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking “230(b)(2)(A)” and “430(b)(2)(A)” and inserting “230(b)(2)” and “430(b)(2)”, respectively, effective as if this paragraph were included in such section 10208(b)(1).*

(c) *CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—*

(1)(A)(i) *Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—*

(I) in subparagraph (A)(i), by striking “and subchapter E” and all that follows through “1954” and inserting “and chapters 2 and 21 of the Internal Revenue Code of 1986”;

(II) in subparagraph (A)(ii), by striking "1954" and inserting "1986";

(III) in the matter in subparagraph (A) following clause (ii), by striking "subchapter E" and all that follows through "1954." and inserting "chapters 2 and 21 of the Internal Revenue Code of 1986.", and by striking "1954 other" and inserting "1986 other"; and

(IV) in subparagraph (B), by striking "1954" each place it appears and inserting "1986".

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking "section 3101(a)" and all that follows through "1950." and inserting "section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).", and by striking "wages reported" and all that follows through "1954," and inserting "wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code,".

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1995.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking "The Board of Trustees shall prescribe before January 1, 1981, the method" and inserting "If at any time or times the Boards of Trustees of such Trust Funds deem such action advisable, they may modify the method prescribed by such Boards";

(ii) by striking "1954" and inserting "1986"; and

(iii) by striking the last sentence.

(2) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking "1954" and inserting "1986"; and

(B) in paragraph (3)(A), by inserting "of the Internal Revenue Code of 1986" after "3127".

(3) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting "or the Internal Revenue Code of 1986" after "1954".

(4)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting "or the Internal Revenue Code of 1986" after "Internal Revenue Code of 1954".

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking "1954" each place it appears and inserting "1986".

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amended by striking "1954" each place it appears and inserting "1986".

(5) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting "of the Internal Revenue Code of 1986" after "section 162(m)".

(6) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking "1954" each place it appears and inserting "1986".

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking "paragraph (1)" and inserting "this subsection"; and

(C) by striking paragraph (1) and inserting the following new paragraphs:

"(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term 'national average wage

index' for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

"(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—

"(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

"(B) by disregarding the limitation on wages specified in subsection (a)(1),

"(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

"(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years."

(2) CONFORMING AMENDMENTS.—

(A) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking "deemed average total wages" and inserting "national average wage index", and by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1976."

(B) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking "deemed average total wages" and inserting "national average wage index"; and

(ii) in subclause (II), by striking "the average of the total wages" and all that follows and inserting "the national average wage index (as so defined) for 1977."

(C) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "deemed average total wages" and inserting "national average wage index".

(D) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking "after 1978";

(ii) by striking "and the average of the total wages (as described in subparagraph (B)(ii)(I))" and inserting "and the national average wage index (as defined in section 209(k)(1))"; and

(iii) by striking the last sentence.

(E) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking "deemed average total wages" each place it appears and inserting "national average wage index".

(F) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking "SSA average wage index" and inserting "national average wage index (as defined in section 209(k)(1))"; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(G) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(1)(C)(ii)) is amended to read as follows:

"(i) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the national average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D)."

(H) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding "and" at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

"(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability)."

(f) TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—

(1) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(A) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(B) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or"

(2) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—

(A) TITLE II AMENDMENTS.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(i) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(ii) by redesignating the paragraph (5) as amended thereby as paragraph (6).

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

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

(ii) by inserting after subparagraph (D) the following:

“(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary’s representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.”

(3) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(A) CALCULATION OF FEE OF CLAIMANT’S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

“(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase ‘(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 parenthetical phrase contained therein; and”.

(B) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(i) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(I) by inserting “(A)” after “(b)(1)”; and

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

“(B) For purposes of this paragraph—

“(i) the term ‘past-due benefits’ excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

“(ii) amounts of past-due benefits shall be determined before any applicable reduction under section 1127(a).”

(ii) PROTECTION FROM OFFSETTING SSI BENEFITS.—

The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a-6(a)) is amended by striking “section 206(a)(4)” and inserting “subsection (a)(4) or (b) of section 206”.

(4) APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.—

(A) IN GENERAL.—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

“(C) In any case involving—

“(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

“(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).”

(B) CONFORMING AMENDMENT.—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking “paragraph (2)(C)” and inserting “paragraph (2)(D)”.

(5) EFFECTIVE DATE.—Each amendment made by this subsection shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates, except that the amendments made by paragraph (3)(B) shall apply with respect to favorable judgments made after 180 days after the date of the enactment of this Act.

(g) ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE CONTRIBUTION AND BENEFIT BASE AND THE EARNINGS TEST EXEMPT AMOUNTS.—

(1) ADJUSTMENT OF OASDI CONTRIBUTION AND BENEFIT BASE.—

(A) IN GENERAL.—Section 230(b) of the Social Security Act (42 U.S.C. 430(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) \$60,600, and

“(2) the ratio of (A) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the national average wage index (as so defined) for 1992.”

(B) CONFORMING AMENDMENT RELATING TO APPLICABLE PRIOR LAW.—Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking “(except that)” and all that follows through the end and inserting “(except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to \$45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a cal-

endar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992.”.

(C) ADJUSTMENT OF CONTRIBUTION AND BENEFIT BASE APPLICABLE IN DETERMINING YEARS OF COVERAGE FOR PURPOSES OF SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—Section 215(a)(1)(C)(ii) of such Act is amended by striking “except that” and all that follows through the end and inserting “except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to \$45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992.”.

(2) ADJUSTMENT OF EARNINGS TEST EXEMPT AMOUNT.—Section 203(f)(8)(B)(ii) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended to read as follows:

“(ii) the product of the corresponding exempt amount which is in effect with respect to months in the taxable year ending after 1993 and before 1995, and the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subparagraph (A) is made, to

“(II) the national average wage index (as so defined) for 1992,

with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.”.

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall be effective with respect to the determination of the contribution and benefit base for years after 1994.

(B) The amendment made by paragraph (2) shall be effective with respect to the determination of the exempt amounts applicable to any taxable year ending after 1994.

(h) TECHNICAL AMENDMENTS TO TITLE XVI.—(1) Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended—

(A) in the 1st subsection (n), by striking “subsection” and inserting “title”; and

(B) by redesignating the 2nd subsection (n) as subsection (o).

(2) Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) by striking “and” at the end of paragraph (9);

(B) by striking the period at the end of the 1st paragraph (10) and inserting “; and”; and
(C) by redesignating the 2nd paragraph (10) as paragraph (11).

(3) *EFFECTIVE DATE.*—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

And the Senate agree to the same.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLE,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BILL ARCHER,
JIM BUNNING,
RICK SANTORUM,

Managers on the Part of the House.

DANIEL P. MOYNIHAN,
MAX BAUCUS,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

1. ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

(Sec. 101–110 of the House bill, secs. 101–204 of the Senate amendment, and secs. 101–110 of the conference agreement)

a. Status of Agency

Present law

The Social Security Administration (SSA) is a component of the Department of Health and Human Services (HHS).

House bill

SSA would be made an independent agency in the executive branch of the Federal government, with responsibility for administration of the Old-Age, Survivors, and Disability Insurance (OASDI) and Supplemental Security Income (SSI) programs.

Senate amendment

Same as House provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with amendments providing that SSA would continue to perform its current functions in administering the Coal Industry Retirees Health Benefits Act and Part B of the Black Lung Benefits Act.

*b. Agency Leadership and Management**Present law*

The Secretary of HHS has responsibility for administration of the OASDI and SSI programs. Administration of these programs has been delegated to the Commissioner of Social Security. The Commissioner is appointed by the President with the advice and consent of the Senate, but reports to the Secretary.

House bill

SSA would be governed by a three-member, full-time Board, appointed by the President with the advice and consent of the Senate. The Board members would serve 6-year terms, with no more than 2 members being from the same political party. Board members would be chosen on the basis of their integrity, impartiality, and good judgment, and would be individuals who, by reason of education, experience, and attainments, are exceptionally qualified to perform the duties of the Board. Board members could be removed from office by the President only pursuant to a finding of neglect of duty or malfeasance in office. The terms of the first members would expire after two, four and six years.

Recommendations for persons to serve on the Board would be made by the Chairman of the House Committee on Ways and Means and the Senate Committee on Finance. A member could, at the request of the President, serve for up to a year after the member's term expires until a successor has taken office. A member could be appointed for additional terms.

The President would appoint one of the members to be a chairperson of the Board for a 4-year term. The chairperson or two members could call a meeting of the Board with any two members constituting a quorum. Any member alone would be permitted to hold a hearing.

Each member of the Board would be compensated at the rate provided in level II of the Executive Schedule. No member would be permitted to engage in any other business, vocation, profession, or employment.

The Board would:

- Govern OASDI and SSI by regulation;
- Establish the agency and oversee its efficient and effective operation;
- Establish policy and devise long-range plans for the agency;
- Appoint an Executive Director to act as the agency's chief operating officer;

Constitute three members of a new seven-member Board of Trustees of the Social Security Trust Funds, with the chairperson of the agency's Board serving as chairperson of the Board of Trustees (the Secretary of Labor would be dropped as a member of the Board of Trustees);

Prepare an annual budget, which would be presented by the President to Congress without revision, together with the President's annual budget for the agency;

Study and make recommendations to the Congress and President on the most effective methods of providing economic

security through social insurance, SSI, and related programs, as well as on matters related to OASDI and SSI administration;

Provide the Congress and President with ongoing actuarial and other analyses; and

Conduct policy analysis and research.

The Board would be authorized to prescribe rules and regulations. It would also be authorized to establish, alter, consolidate, or discontinue organizational units and components of the agency (other than those provided by statute). Further, it would be permitted to assign duties and delegate (or authorize successive redelegations of) authority to act and to render decisions to such officers and employees as it deems necessary.

Senate amendment

SSA would be governed by a Commissioner appointed by the President, with the advice and consent of the Senate, for a 4-year term coinciding with the term of the President (or until the appointment of a successor). The Commissioner would be compensated at the rate for level I of the Executive Schedule (equivalent to Cabinet officer pay). The Commissioner would be responsible for the exercise of all powers and the discharge of all duties of SSA, have authority and control over all personnel and activities of the agency, and serve as a member of the 5-member Board of Trustees.

The President would be required to appoint a Commissioner within 60 days of the enactment. Upon such appointment and confirmation by the Senate, the Commissioner appointed under this title would assume the duties of the HHS Commission of Social Security until SSA is established as an independent agency.

The Commissioner would be authorized to prescribe rules and regulations; establish, alter, consolidate, or discontinue organizational units and components of the agency (except for those prescribed by law); and assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Commissioner may find necessary.

The Commissioner and the Secretary of Health and Human Services would be directed to consult with one another on an ongoing basis to assure: (1) the coordination of the Social Security, SSI, and Medicare and Medicaid programs and (2) that adequate information concerning Medicare and Medicaid benefits would be available to the public.

Conference agreement

The conference agreement follows the Senate amendment, modified to provide that the Commissioner would serve a fixed six-year term, except that the initial term of office would terminate January 19, 2001. As in the case of the Board members in the House bill, the Commissioner could be removed from office by the President only pursuant to a finding of neglect of duty or malfeasance in office.

In providing that a single administrator, rather than a bipartisan board, will head the independent agency, the conferees place

high priority on management efficiency, which they see as essential in enabling the independent SSA to address the problems that confront it. At the same time, the conferees are concerned by the high rate of turnover, and resulting instability, that has characterized SSA's top management in recent years. A number of problems in service delivery associated with this instability has been documented in studies by the General Accounting Office and in hearings by the House Committee on Ways and Means and the Senate Committee on Finance. A description of these studies and hearings is contained in both Committees' reports on this legislation.

The conferees expect that the key features of SSA's leadership structure as established in the conference agreement—i.e., independent status, a six-year term and the limitation on removal by the President, and a bipartisan advisory board—will be effective in assuring that policy errors resulting from inappropriate influence from outside the agency such as those occurring in the early 1980s do not recur in the future.

(1) Board of Trustees

Present law

The Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds consists of the Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and two public trustees. The Commissioner of Social Security serves as the Secretary of the Board.

House bill

The provision would expand the Board of Trustees and alter its membership. As restructured, the Board would consist of the 3 members of the independent agency's board of directors, the Secretary of the Treasury, the Secretary of Health and Human Services, and the two public trustees. The Secretary of Labor would be dropped from the Board. Also, the chairperson of SSA's board of directors would serve as the chairperson of the Board of Trustees. The Executive Director would serve as the Secretary of the Board.

Senate amendment

The Commissioner of the independent agency would serve as a member of the Board of Trustees, and the Secretary of Labor would be dropped from the Board. The Deputy Commissioner would serve as the Secretary of the Board.

Conference agreement

The conference agreement follows the Senate amendment, with an amendment providing that the Secretary of Labor would continue to serve as a member of the Board.

(2) SSA Budget

Present law

SSA's annual budget request is submitted to Congress by the President, as part of his proposal for the overall budget for the executive branch.

House bill

SSA's board of directors would be required to prepare an annual budget for the agency, which would be presented by the President to Congress without revision, together with the President's annual budget for the agency.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the budget would be prepared and forwarded to the President by the Commissioner, rather than the Board.

(3) Advisory Board

Present law

No provision.

House bill

No provision.

Senate amendment

A 7-member part-time Advisory Board would be appointed for 6-year terms, made up as follows: 3 appointed by the President (no more than 1 from the same political party); 2 each (no more than 1 from the same political party) by the Speaker of the House (in consultation with the Chairman and Ranking Minority Member of the Committee on Ways and Means) and the President pro tempore of the Senate (in consultation with the Chairman and Ranking Minority member of the Committee on Finance). Presidential appointees would be subject to Senate confirmation. Board members would serve staggered terms. The chairman of the Board would be appointed by the President for a 4-year term, coincident with the term of the President, or until the designation of a successor. The Board would meet at least 6 times each year and generally would be responsible for giving advice on policies related to the OASDI and SSI programs.

Compensation of members would be set at a rate equal to 25 percent of the rate for level III of the Executive Schedule (in addition, on meeting days compensation would be equivalent to that of the daily rate of level III of the Executive Schedule). Other benefits (except for health benefits) would not accrue. The Board would be required to appoint a staff director (paid at a rate equivalent to a rate for the Senior Executive Service) and would be authorized to hire necessary staff. The Board would be exempt from the provisions of the Federal Advisory Committee Act.

Specific functions of the Board would include:

Analyzing the nation's retirement and disability system and making recommendations with respect to how the OASDI program and SSI program, supported by other public and private systems, can most effectively assure economic security;

Studying and making recommendations relating to the coordination of programs that provide health security with the

OASDI and SSI programs and with other public and private systems;

Making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the OASDI program, both in the short-term and long-term;

Making recommendations to the President of candidates to consider in selecting nominees for the position of Commissioner and Deputy Commissioner;

Reviewing and assessing the quality of service that the Administration provides to the public;

Reviewing and making recommendations with respect to policies and regulations regarding the OASDI and SSI programs;

Increasing public understanding of the Social Security system;

In consultation with the Commissioner, reviewing the development and implementation of a long-range research and program evaluation plan for the Administration;

Reviewing and assessing any major studies of Social Security that may come to the attention of the Board; and

Conducting such other reviews and assessments as the Board determines to be appropriate.

Conference agreement

The conference agreement generally follows the Senate amendment, except that Advisory Board members would serve fixed terms, meet at least four times a year (four members, not more than three from the same political party, would constitute a quorum), and serve without compensation, except that, 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.

Specific functions of the Board include:

Analyzing the nation's retirement and disability systems and making recommendations with respect to how the OASDI program and SSI program, supported by other public and private systems, can most effectively assure economic security;

Studying and making recommendations relating to the coordination of programs that provide health security with the OASDI and SSI programs and with other public and private systems;

Making recommendations to the President and to the Congress with respect to policies that will ensure the solvency of the OASDI program, both in the short-term and the long term;

Making recommendations with respect to the quality of service that the Administration provides to the public;

Making recommendations with respect to policies and regulations regarding the OASDI and SSI programs;

Increasing public understanding of the social security system;

Making recommendations with respect to a long-range research and program evaluation plan for the Administration;

Reviewing and assessing any major studies of social security that may come to the attention of the Board; and

Making recommendations with respect to such other matters as the Board determines to be appropriate.

In general, it is expected that the scope of the Advisory Board would be broadly focused, as indicated by its statutory mandate. This would be in contrast to the focus of recent Advisory Councils, which have tended to focus on specific aspects of the program. While the Advisory Board is required to review and assess the quality of service to the public provided by the Administration, the conferees expect that the performance of this or any other duty shall not serve as a basis for the Advisory Board to become involved in the day-to-day operation or management of the agency. Moreover, the conferees do not see the Board's role in evaluating SSA's policies and regulations as extending to the Board any special status with respect to the requirements and procedures related to the Administrative Procedures Act.

While the Board will appoint a staff director and hire required clerical support personnel, any additional staff required by the Board will be provided by the Commissioner of Social Security, who will detail employees to the Board, as agreed by the Commissioner and the Board. It is the intention of the conferees that the Board's staff director and clerical support staff not fall under the cap imposed by the conference agreement on positions that may be exempted from the competitive service at SSA.

To carry out its duties, the Advisory Board must have access to the records of the Social Security Administration. Therefore, it is expected that SSA will furnish information requested by the Advisory Board that, in the Board's judgment, is required for the performance of its duties.

The conferees believe that it is important to emphasize that the Board is advisory in nature, and that its members will meet on a part-time basis rather than serve as a standing body. It is expected that the Commissioner will consider the advice of the Board when formulating agency policy. The conferees anticipate that the Board will be effective in enhancing public confidence in the Social Security system. They believe that the Board's independent status and bipartisan membership make it especially well-suited for this important task.

(4) Executive Director

Present law

No provision.

House bill

An Executive Director would be appointed by the Board to serve as the agency's chief operating officer for a 4-year term. The individual would be permitted to serve up to one additional year until a successor had taken office (at the request of the chairperson of the Board). The Board would be permitted to appoint the Executive Director for additional terms. An Executive Director could be removed from office before completion of his or her term only for

cause found by the Board. Compensation would be set at the rate provided in level II of the Executive Schedule.

The Executive Director would:

Be the chief operating officer responsible for administration;

Maintain an efficient and effective administrative structure;

Implement the long-term plans of the Board;

Report annually to the Board on the program costs of OASDI and SSI; make annual budgetary recommendations for the administrative costs of the agency and defend such recommendations before the board;

Advise the Board and Congress of effects on administration of proposed legislative changes;

Serve as Secretary of the Board of Trustees (for OASDI);

Report to the Board in December of each year, for transmittal to Congress; on administrative endeavors and accomplishments; and

Carry out any additional duties assigned by the Board.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

c. Deputy Commissioner of Social Security

Present law

Under current SSA practice, there are six deputy commissioners (for operations; programs; finance, assessment and management; policy and external affairs; systems; and human resources). None of these is a statutory position. In addition, a non-statutory Principal Deputy Commissioner is designated to serve as Acting Commissioner in the absence of the Commissioner.

House bill

A Deputy Director of Social Security would be appointed by, and serve at the pleasure of, the Executive Director.

The Deputy Director would perform such duties and exercise such powers as are assigned by the Executive Director, and serve as Acting Executive Director during the absence or disability of the Executive Director. The Deputy Director would also serve as Acting Executive Director in the event of a vacancy in the office of Executive Director unless the Board designates another official to fill the post. He or she would be compensated at the rate provided in level III of the Executive Schedule.

Senate amendment

A Deputy Commissioner would be appointed by the President, with the advice and consent of the Senate, for a 4-year term coincident with the term of the Commissioner or until appointment of a qualified successor.

The Deputy Commissioner would perform such duties and exercise such powers as are assigned by the Commissioner, and serve as Acting Commissioner during the absence or disability of the Commissioner (or vacancy of the office) unless the President designates someone else. He or she would be compensated at the rate provided for level II of the Executive Schedule. In addition, the Deputy Commissioner would serve as the Secretary of the Board of Trustees of the OASDI Trust Funds.

Conference agreement

The conference agreement follows the Senate amendment, except that the Deputy Commissioner would serve a six-year, rather than a four-year, term. The Deputy Commissioner's term would coincide with that of the Commissioner.

d. General Counsel

Present law

SSA receives legal services from the Office of General Counsel of HHS through a component headed by a Chief Counsel for Social Security.

House bill

A General Counsel would be appointed by and serve at the pleasure of the Board as SSA's principal legal officer. He or she would be compensated at the rate provided in level IV of the Executive Schedule.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision). The conferees anticipate that the agency officers will include a General Counsel.

e. Inspector General

Present law

The Inspector General of HHS is responsible for oversight of SSA.

House bill

An Office of Inspector General would be created within SSA, to be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978. He or she would be compensated at the rate provided in level IV of the Executive Schedule.

Senate amendment

The Inspector General Act of 1978 would be amended to authorize establishment, under that act, of an Inspector General of SSA.

Conference agreement

The conference agreement follows the Senate amendment, with an amendment providing that the Inspector General would be compensated at the rate provided in level IV of the Executive Schedule.

In addition, the conference agreement provides the Commissioner of the independent agency with authority to appoint an interim Inspector General to serve for up to 60 days. If the Commissioner does not make this appointment, the Inspector General of HHS may, if requested by the Commissioner, serve as SSA's Inspector General (while continuing to serve as the Inspector General of HHS) until an Inspector General is appointed for the independent agency.

The bill does not establish in the Administration any positions other than the Commissioner, Deputy Commissioner, Inspector General and Chief Financial Officer. The conferees believe that it is preferable to give the Commissioner the authority to determine the most efficient administrative organization for an independent SSA. However, the conferees believe that an essential element in any administrative organization for SSA is the position of Chief Actuary. While such a position is not mandated legislatively, it is expected that SSA will continue to have a Chief Actuary, and that the Chief Actuary will remain available to consult with the Chairman of the Senate Committee on Finance and the Chairman of the House Ways and Means Committee.

The conferees wish to emphasize the very important role of the Office of the Actuary in assessing the financial condition of the Social Security trust funds and in developing estimates of the financial effects of potential legislative and administrative changes in the Social Security program. The Office of the Actuary has a unique role within the agency in that it serves both the Administration and the Congress. While the conferees expect that the Chief Actuary will report to the Commissioner, this office often must work with the committees of jurisdiction in the development of legislation.

Beginning with the appointment of the first Chief Actuary in 1936, the tradition was for a close and confidential working relationship between the individual who held that office and the committees of jurisdiction in the Congress, a relationship which the Committees value highly. It is important to emphasize that both the Senate Committee on Finance and the House Committee on Ways and Means rely on their ability to seek estimates on a confidential basis from the Chief Actuary, especially when developing new legislation. Thus, the independence of the Office of the Chief Actuary with respect to providing assistance to the Congress is vital in maintaining a trusting and useful relationship.

The conferees believe that it is important for the Office of the Chief Actuary to receive adequate staffing and support from the agency. In this regard, the conferees are concerned that fewer actuarial studies and notes have been published in recent years and that various informal reports and actuarial memoranda that were available in the past are no longer circulated. The conferees consider independent analyses by the Office of the Chief Actuary to be consistent with the general role and responsibilities of the actuarial profession, and in the past have found these analyses to be very

helpful in understanding the factors underlying estimates and trends in the Social Security program.

With respect to adequate staffing, the conferees wish to note that it is essential that the strength of the Office of the Actuary be maintained. The conferees strongly urge that the actuarial staff at SSA be enhanced on an ongoing basis. Toward that end, the conferees believe that, in formulating a comprehensive workforce plan, the Commissioner of Social Security should carefully evaluate the needs of the Office of the Actuary and consider the need for additional Senior Executive Service positions in this office.

Although the conferees have not legislatively established a position of Chief Actuary in the independent agency, the conferees recognize the important role of the Office of the Chief Actuary and expect that in the independent SSA the office will be permitted to function with a high degree of independence and professionalism.

f. Chief Financial Officer

Present law

No provision.

House bill

No provision.

Senate amendment

A Chief Financial Officer would be appointed by the Commissioner in accordance with amendments to Title 31 of the U.S. Code made by the Chief Financial Officers Act of 1990.

Conference agreement

The conference agreement follows the Senate Amendment.

g. Beneficiary Ombudsman

Present law

No formal position of this nature exists within SSA.

House bill

An Office of Beneficiary Ombudsman, headed by a beneficiary ombudsman appointed by the Board, would be created within SSA. The term of office would be 5 years, except for the first ombudsman whose term would end September 30, 2000. The ombudsman would be permitted to serve up to one additional year until a successor had taken office (at the request of the chairperson of the Board), and could be appointed for additional terms. The ombudsman could be removed from office before completion of his or her term only for cause found by the Board. Compensation would be set at the rate provided in level V of the Executive Schedule.

The beneficiary ombudsman would:

Represent the interests and concerns of program beneficiaries within SSA's decision-making process;

Review SSA's policies and procedures for possible adverse effects on beneficiaries;

Recommend within SSA's decision-making process changes in policies which have caused problems for beneficiaries;

Help resolve problems for individual beneficiaries in unusual or difficult circumstances, as determined by the Administration; and

Represent the views of beneficiaries within SSA's decision-making process in the design of forms and issuance of instructions.

The Board would assure that the Office of Beneficiary Ombudsman is sufficiently staffed in regional offices, program centers, and the central office.

The annual report of the Board would include a description of the activities of the beneficiary ombudsman.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

h. Office of Chief Administrative Law Judge

Present law

The Social Security Act requires SSA to conduct hearings to consider appeals of SSA decisions by beneficiaries and applicants for benefits. These hearings are conducted by administrative law judges (ALJs). Although not required by law, the agency follows the procedures of the Administrative Procedures Act (APA) with respect to the appointment of ALJs and the conduct of hearings. The ALJs are located organizationally within the Office of Hearings and Appeals, headed by an associate commissioner who reports to the deputy commissioner for programs.

House bill

An Office of Chief Administrative Law Judge, headed by a chief ALJ appointed by the Board, would be created within SSA to administer the affairs of SSA's ALJs in a manner so as to ensure that hearings and other business are conducted by the ALJs in accordance with applicable law and regulations. The chief ALJ would report directly to the Board.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

i. Interim Authority of the Commissioner

Present law

No provision.

House bill

The President would be required to nominate appointments to the Board not later than April 1, 1995. If all members of the Board are not in office by October 1, 1995, the person then serving as Commissioner of Social Security would continue to serve as head of SSA within HHS, and serve as the head of the newly-established SSA, assuming the powers and duties of the Board and Executive Director.

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the House bill by providing that the existing Commissioner of Social Security in the Department of HHS would continue to serve in that post until a Commissioner is nominated by the President pursuant to this statute and is confirmed by the Senate. Nomination by the President must occur within 60 days of enactment. Upon confirmation by the Senate (whether before or after the general effective date of this statute), the President's nominee would assume the position of Commissioner of Social Security.

In the event that, as of March 31, 1995, the President has not nominated an individual for appointment to the Office of Commissioner of Social Security, the individual serving as Commissioner of Social Security in the Department of Health and Human Services shall become the Acting Commissioner of Social Security in the independent SSA.

j. Personnel; Budgetary Matters; Facilities and Procurement; Seal of Office

(1) Appointment of Employees by the Commissioner

Present law

No provision.

House bill

The Board would appoint additional officers and employees as it deems necessary (with compensation fixed in accordance with title 5 of the U.S. Code, except as otherwise provided by law), and could procure services of experts and consultants.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

(2) Allotment of Senior Executive Service (SES) Employees

Present law

No provision.

House bill

The Director of the Office of Personnel Management (OPM) would be required to give SSA an allotment of Senior Executive Service (SES) positions that exceeds the number authorized for SSA immediately before enactment of this Act to the extent a larger number is specified in a comprehensive work plan developed by the Board. The total number of such positions could not be reduced at any time below the number SSA held immediately before enactment of this Act.

Senate amendment

The Senate amendment includes the same provision, except that the number of SES positions allotted to SSA must be "substantially" greater than the number allotted to SSA before enactment of this Act.

Conference agreement

The conference agreement follows the Senate amendment, with an amendment requiring the Director of OPM to inform the Committee on Ways and Means and the Committee on Finance of the number of SES positions allotted to SSA within 60 days of the transmittal of the comprehensive work plan to the Director of OPM.

In agreeing to this provision, the conferees wish to note that, at present, the number of SES positions in SSA is low in proportion to the agency's responsibilities and the size of the agency's staff. The conferees expect that SSA's allotment will increase as an independent agency, commensurate with the agency's increased stature and responsibilities.

(3) Executive Level Positions

Present law

No provision.

House bill

In addition to the 8 Executive Schedule positions established by this Act, SSA also would be authorized 6 positions at level IV and 6 positions at level V of the Executive Schedule.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

(4) Positions Exempted From the Competitive Service

Present law

No provision.

House bill

No provision.

Senate amendment

The number of positions which may be excepted from the competitive service because of their confidential or policy-determining character could not exceed the equivalent of 10 full-time positions.

Conference agreement

The conference agreement generally follows the Senate amendment, except that the limit would be set at 20 and would apply only to non-career Senior Executive Service (SES) and schedule C positions. The four SSA positions authorized by this statute—Commissioner, Deputy Commissioner, Inspector General, and Chief Financial Officer—would not be counted toward the limit, nor would the staff hired by the Social Security Advisory Board.

(5) Workforce Plan; Biennial Appropriation

Present law

No provision.

House bill

Appropriation requests for SSA staffing and personnel would be based upon a comprehensive workforce plan, established and revised from time to time by the Board.

Senate amendment

The Senate amendment includes a similar provision, except that the plan would be established by the Commissioner and appropriations would be authorized to be made on a biennial basis.

Conference agreement

The conference agreement follows the Senate amendment.

(6) Contingency Funds

Present law

No provision.

House bill

No provision.

Senate amendment

Appropriated contingency funds would be apportioned upon the occurrence of the stipulated contingency, as determined by the Commissioner and reported to the Congress.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

(7) Seal of Office

Present law

No provision.

House bill

The Board would create a Seal of Office for SSA, and judicial notice would be taken of it.

Senate amendment

The Commissioner would create a Seal of Office for SSA, and judicial notice would be taken of it.

Conference agreement

The conference agreement follows the Senate amendment.

k. Transfers and Transitional Rules

(1) Transfers of Functions and Staff

Present law

No provision.

House bill

In consultation with the Secretary of HHS, the Board would determine appropriate allocations of personnel and assets be transferred from HHS to SSA. In addition, there would be transferred such number of ALJs as are necessary to carry out the functions transferred by this Act (as determined by the Board in consultation with the Secretary).

Senate amendment

All functions, assets and personnel related to the administration of Social Security programs would be transferred from HHS to SSA. Transfers include all personnel employed in connection with the functions transferred to SSA and the assets, liabilities, contracts, property, records and unexpended balance of appropriations, authorizations, allocations, or other funds employed, held, or used in connection with these functions.

Conference agreement

Under the conference agreement generally follows the Senate amendment, with an amendment providing that the Commissioner and the Secretary will enter into a written interagency transfer arrangement identifying the personnel and resources to be transferred to SSA pursuant to this provision. The Commissioner and the Secretary will also identify support functions which are to be transferred—i.e., payroll, legal, and audit functions.

Under the conference agreement, SSA will continue to perform its current functions in administering the Medicare and Medicaid programs, including the adjudication of Medicare appeals, until such time as the Secretary and the Commissioner agree to a different arrangement. While the Secretary will maintain the ultimate authority for appeal decisions, SSA's ALJ corps will conduct appeal hearings until such time as the Secretary and the Commissioner agree to separate the functions.

The conferees urge the Secretary and the Commissioner to make a joint examination of the most appropriate methodology which could be used to determine the costs to be borne by the Med-

icare trust funds for Medicare-related functions performed by SSA. The conferees request that the Secretary and the Commissioner report their joint findings to the Committee on Ways and Means and Committee on Finance within 36 months.

(2) Terminate 6 Executive Level IV and V Positions

Present law

No provision.

House bill

The Secretary of HHS shall terminate 6 positions in the Department of HHS placed in level IV and 6 positions placed in level V of the Executive Schedule other than positions required by law.

Senate amendment

No provision.

Conference agreement

The conference agreement follows Senate amendment (i.e., no provision).

(3) Employees Performing SSA Work on Date of Transfer

Present law

No provision.

House bill

No provision.

Senate amendment

HHS employees who are employed on the date of enactment of this Act, solely in connection with functions transferred by this title to SSA, and who are so employed on the day before the date SSA is established as an independent agency, shall be transferred from HHS to SSA.

HHS employees who are not employed on the date of the enactment of this Act in connection with functions transferred to SSA, but who are so employed on the day before SSA is established as an independent agency, may be transferred from HHS to SSA by the Commissioner, after consulting with the Secretary of HHS, if the Commissioner determines such transfer to be appropriate.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

(4) Funds Transferred

Present law

No provision.

House bill

Funds available to any official or component of HHS whose functions are transferred to the Commissioner of Social Security or

the independent SSA may, with the approval of the Director of the Office of Management and Budget, be used to pay compensation of any officers appointed during the transition until funds for that purpose are otherwise available.

Senate amendment

Same as House provision.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

(5) Transfer of Existing Orders, Determinations, Contracts, etc.

Present law

No provision.

House bill

All orders, determinations, rules, regulations, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges in effect under the authority of the Secretary of HHS at the time of the transition would continue under the independent agency until their expiration or modification by the Board in accordance with law. Further, the change would not alter any pending proceeding before the Secretary, nor any suit nor penalty, except that such proceedings would continue before the Board.

Senate amendment

All orders, rules, regulations, determinations, contracts, collective bargaining agreements (including ongoing negotiations), recognitions of labor organizations, certificates, licenses and privileges in effect under the authority of the Secretary of HHS at the time of the transition would continue under the authority of the independent SSA until modified or terminated by the Commissioner. Suits and penalties commenced prior to enactment would also continue. Collective bargaining agreements would remain in effect until the date of termination specified in such agreement.

Conference agreement

The conference agreement follows the Senate amendment.

(6) Employee Protections; Transfer of Employees

Present law

No provision.

House bill

Transfer to the independent agency would not cause any full-time personnel (except special government employees) or part-time personnel holding permanent positions to be separated or reduced in grade or compensation for one year after such transfer.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical modifications. In addition, the provision stipulates that transferred personnel who were not SSA employees immediately prior to March 31, 1995, would not be subject to directed reassignment to a duty station outside their commuting area for one year after such date, except that such personnel residing in the Baltimore, Maryland, or Washington, D.C., commuting area would not be subject to directed reassignment to duty stations in the Washington, D.C. or Baltimore, Maryland, commuting areas, respectively, for six months after such date. The conferees expect that in implementing this provision, SSA will develop a definition of "commuting area" no later than March 31, 1995.

In establishing these protections, the conferees are seeking to insure that SSA's transition to independent status does not adversely affect any worker's employment, pay, or grade. The conferees also want to protect employees who are transferred as a result of this Act from HHS to SSA, and their families, from having to relocate immediately. The conferees intend these protections to extend only to personnel actions and transfers stemming from the transition of SSA to its new status as an independent agency. They should not be interpreted as preventing SSA from taking personnel actions unrelated to this transition that affect employees' jobs, pay, or grade.

1. TRANSITION DIRECTOR

Present law

No provision.

House bill

No provision.

Senate amendment

SSA's transition to independent status would be led by a Transition Director, who would be selected on the basis of experience and knowledge of the operation of the Federal Government. Within 30 days after enactment, the President would be required to appoint the Transition Director, who would be compensated at the rate provided for level IV of the Executive Schedule.

Before the Commissioner of the independent SSA has been appointed, the Transition Director would be required to consult regularly with the Director of the Office of Management and Budget. Upon such appointment, the Transition Director would work under the direction of the Commissioner of SSA.

Within 120 days of the enactment, the Transition Director and the Commissioner of Social Security would be required to report to the Congress on the status of the transition and on any significant internal restructuring or management improvements that are proposed to be undertaken.

Conference agreement

The conference agreement follows the House bill (i.e., no provision).

*m. Advisory Council**Present law*

An advisory council is appointed by the Secretary of HHS every four years for the purpose of reviewing the status of the Social Security and Medicare programs.

House bill

No provision.

Senate amendment

There would be no quadrennial advisory councils for Social Security, although quadrennial councils would continue to be convened for Medicare.

Conference agreement

The conference agreement follows the Senate amendment, except that the provision does not authorize quadrennial advisory councils for Medicare. Also, the Advisory Council appointed in 1994 would be authorized to complete its work. The conferees expect that the Congress will consider authorizing quadrennial advisory councils for Medicare in future legislation.

*n. Annual Report**Present law*

The Secretary of HHS is required to make an annual report to Congress on the administration of the functions with which the Secretary is charged under the Social Security Act (including OASDI and SSI).

House bill

No provision.

Senate amendment

The requirement for an annual report with respect to OASDI and SSI would be eliminated.

Conference agreement

The conference agreement follows the Senate amendment, with a technical amendment modifying provisions of existing law which require the inclusion of information in SSA's annual report so that this information will be provided to Congress separately.

The conferees do not intend this provision to override any statutory requirements that SSA provide information to Congress. Rather, reports that are mandated by law will continue to be provided. Furthermore, in the absence of the annual report, the conferees expect that SSA will include in its annual statistical supplement basic information similar to that currently included in the annual report on: (1) the OASI, DI, and SSI programs; (2) the struc-

ture of SSA, including numbers of local offices, regional offices, and teleservice centers; (3) the size and distribution of SSA staff; (4) pending workloads at each level of the disability application and appeals process; and (5) representative payees for Social Security and SSI beneficiaries.

o. Data Exchange

Present law

Within the current Department of Health and Human Services, programs administered by the Social Security Administration, the Health Care Financing Administration, the Administration for Children and Families, and other programs may disclose information from their respective systems of records to assist the administration of various HHS programs.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The provision would continue existing data exchanges between HHS and SSA, by requiring the Secretary to disclose to the Commissioner, and the Commissioner to the Secretary, any record or information requested in writing by the others for the purpose of administering any program, if the same type of information was disclosed to SSA or HHS, respectively, before the date of enactment.

Until March 31, 1995, such exchanges may continue to be carried out without need to publish new routine uses under the Privacy Act, and without need for computer matching agreements. Beginning March 31, 1996, additional data exchanges and computer matching agreements shall be made in compliance with the routine uses provision under the Privacy Act.

p. Effective Date

Present law

No provision.

House bill

In general, the provision would take effect October 1, 1995.

Senate amendment

In general, the provision would take effect 180 days after enactment.

Conference agreement

In general, the provision would take effect March 31, 1995. The Secretary and the Commissioner would be required to develop an arrangement for the transfer on March 31, 1995, of SSA personnel, and resources to the independent agency. They would be required

to submit this plan to the Committee on Ways and Means and the Committee on Finance no later than January 1, 1995. No later than February 15, 1995, the General Accounting Office would be required to issue a report to the Committees evaluating this plan.

The conferees expect this plan to be sufficiently detailed that Congress and the GAO can evaluate whether the decisions made by the Secretary and the Commissioner reflect a division of staff and resources that is equitable from the perspective of both agencies. The plan should include the number or portion of staff from each division within the Office of the Secretary that will be transferred to SSA and the method by which those staff will be designated.

In addition, to ensure that the Congress is fully informed of the progress of the transition, the conferees expect GAO to monitor the transition closely and to report frequently to the Committee on Ways and Means and the Committee on Finance on an informal basis. To facilitate GAO's role in the transition, the conferees expect that all participants will furnish the Comptroller General with such information as he determines is necessary to apprise the Committees of the progress of the transition.

Further, the conferees require that, no later than November 1, 1994, the Secretary and the Commissioner report directly to the Committee on Ways and Means and the Committee on Finance on their progress in developing the required joint plan.

2. RESTRICT DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME DISABILITY PAYMENTS TO SUBSTANCE ABUSERS

(Sec. 201 of the House bill, secs. 301-305 of the Senate amendment, and sec. 201 of the conference agreement)

a. Require that All DI Beneficiaries Receive Payment Through a Representative Payee

Present law

Supplemental Security Income (SSI) recipients whose alcoholism or drug addiction is a contributing factor material to their disability are required to receive payments through a representative payee, who has responsibility for managing their finances. There is no parallel requirement for the Disability Insurance (DI) program.

House bill

DI beneficiaries whose drug addiction or alcoholism is a contributing factor material to their disability would be required to receive payment through a representative payee. Thus, for both DI and SSI, it would be deemed in the best interest of the individual to be paid through a representative payee if alcoholism or drug addiction is a contributing factor material to the determination of disability. Further, the requirement that payment be certified to an alternative representative payee is modified by specifying that this occur, "if the interest of the disabled individual would be served thereby."

The provision would become effective 180 days after enactment for both current and prospective DI beneficiaries.

Senate amendment

DI beneficiaries whose disabilities are based in whole or in part on a medical determination that the individual is a drug addict or alcoholic would be required to receive payments through a representative payee.

Conference agreement

The conference agreement follows the House bill with an amendment providing that, for individuals determined eligible for DI benefits beginning 180 days after enactment, the requirement for a representative payee would become effective with respect to their first benefit check. Notification that the individual is subject to this requirement because alcoholism or drug addiction is a contributing factor material to his or her disability would be included in SSA's award notice informing the individual of entitlement to benefits.

For DI beneficiaries on the rolls, this requirement would become effective the month following the month in which SSA provides notification that alcoholism or drug addiction is a contributing factor material to the individual's disability and that, as a consequence, the individual is required to receive payment through a representative payee.

An exception to these rules would apply in cases where SSA has difficulty locating a suitable representative payee for a DI beneficiary who is on the rolls prior to the effective date of the amendment. In such situations, direct payment to the individual could be made for up to 90 days.

The conferees recognize that requiring SSA to identify those DI beneficiaries on the rolls whose alcoholism or drug addiction is material to their disability is a costly and labor-intensive task. Finding appropriate representative payees for these individuals will also present an enormous challenge to the agency. The conferees are establishing these requirements in spite of their difficulty because of the high priority they place on halting the use of DI and SSI funds to support disabling addictions. They expect that SSA will implement this requirement in stages, giving first priority to newly-adjudicated cases and individuals with primary diagnoses of alcoholism or drug addiction. The conferees place a high priority on accomplishing this task and expect that SSA will make every effort to identify during the 180 days following enactment DI beneficiaries on the rolls who are required to have representative payees and to find suitable representative payees for these beneficiaries as soon as possible.

*b. Studies**Present law*

No provision.

House bill

The Secretary of Health and Human Services would be required to conduct a study of (a) the cost, feasibility, and equity of requiring all DI and SSI beneficiaries who suffer from alcoholism or drug addiction (including those whose addiction did not contrib-

ute materially to the determination of disability) to have a representative payee, (b) the feasibility of, and appropriate timetable for, providing benefits through non-cash means (e.g., vouchers, debit cards, electronic benefit transfer systems), (c) the extent to which child recipients are afflicted by drug addiction or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment, and (d) the extent to which children's representative payees are afflicted by drug addiction or alcoholism, and methods to identify these afflicted individuals and to ensure that benefits continue to be provided to beneficiaries appropriately.

Not later than April 1, 1995, the Secretary shall transmit to the Committee on Ways and Means and the Committee on Finance a report on the findings and recommendations of the study.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the study of providing non-cash benefits to alcoholics and drug addicts would focus on issues of cost and equity as well as feasibility and would not include a timetable for implementation. Also, the due date for the study would be December 31, 1995.

c. Preference for Organizations as Representative Payees and Expansion of Qualified Organizations

Present law

The law is silent with regard to assigning an order of preference for the appointment of representative payees. SSA regulations give preference to family members and friends over organizations in both the DI and SSI programs. If the representative payee is determined to have misused any benefits, the Secretary must certify payment to an alternative payee or to the individual.

Community-based nonprofit social service agencies in existence on October 1, 1988, and serving as representative payees for five or more recipients are allowed to collect a monthly fee for their services the fee is collected from the DI or SSI payment, and cannot exceed the lesser of ten percent of the benefit or \$25 per month. The authority for qualified organizations to charge a fee for representative payee services expired July 1, 1994.

House bill

In selecting a representative payee for an individual whose alcoholism or drug addiction is a contributing factor material to his or her disability, preference would be given to qualified organizations, unless the Secretary determines that selection of such an agency would not be appropriate.

Further, the requirement that qualified organizations have been in existence on October 1, 1988, to receive a fee for representative payee services would be repealed, and the list of qualified organizations would be expanded to include:

- (1) Community-based, nonprofit social services agencies;

(2) State or local agencies whose mission is to carry out income maintenance, social service, or health care-related services; and

(3) State or local government agencies with fiduciary responsibilities (or a designee of such an agency if the Secretary deems it appropriate).

The authority for qualified organizations to charge a fee for representative payee services (which expired July 1, 1994) would be reestablished and made permanent, and the monthly fee for services that qualified representative payees of drug addicts and alcoholics receive would be set at ten percent of the monthly benefit.

Senate amendment

Any benefits payable to DI and SSI beneficiaries (including retroactive benefits) based in whole or in part on alcoholism or drug addiction would be payable only pursuant to a certification of such payment to a qualified organization acting as representative payee for the individual. A qualified organization would be further defined to include an agency or instrumentality of a State or a political subdivision of a State.

Conference agreement

The conference agreement follows the House bill, with an amendment that provides an exception to the preference for organizations to serve as representative payees for drug addicts and alcoholics to allow SSA to appoint a family member as representative payee if appointing a family member would be appropriate. However, the conferees intend that in cases where the alcoholic or drug addict is abusive to family members or in cases where family members turn over benefits to the alcoholic or drug addict, a family member would not be found to be an appropriate representative payee. In addition, the conferees believe that there are no circumstances under which bartenders should be permitted to serve as representative payees for the customers they serve.

The fee that organizational representative payees would be permitted to charge drug addicts and alcoholics would be the lesser of 10 percent of the monthly benefit or \$50, indexed to the Consumer Price Index. In addition, the authority for qualified organizations to charge a fee for representative payee services would be made retroactive to July 1, 1994; and the ceiling on fees for organizational representative payees of OASDI and SSI beneficiaries who are not alcoholics or drug addicts—currently \$25—would be indexed to the CPI.

d. Treatment Requirement

Present law

SSI recipients whose alcoholism or drug addiction is a contributing factor material to their disability are required to undergo treatment, when available, at approved facilities. They must also comply with the terms of their treatment program and comply with monitoring and testing provided by the Secretary. There are no parallel requirements for the DI program.

House bill

DI beneficiaries whose drug addiction or alcoholism is a contributing factor material to their disability and who are determined eligible for benefits at least 180 days after enactment would be required to undergo treatment, when available, at approved facilities; to comply with the terms of such treatment programs; and to comply with monitoring and testing provided by the Secretary.

In addition, DI beneficiaries on the rolls with a primary diagnosis of alcoholism or drug addiction would be subject to these requirements.

Senate amendment

DI and SSI beneficiaries whose disability is based in whole or in part on drug addiction or alcoholism would be required to undergo treatment, when available, at approved facilities; to allow their treatment to be monitored; and to comply with monitoring and testing provided by the Secretary.

Conference agreement

The conference agreement generally follows the House bill with respect to new DI beneficiaries. With respect to DI beneficiaries on the rolls as of the effective date of this provision, treatment would be required, if available, for all individuals whose alcoholism or drug addiction is a contributing factor material to their disability.

For individuals determined eligible for DI benefits following the effective date of this provision, the requirement to undergo treatment, if available, would apply beginning with the first month that they receive a benefit check. Notification that the individual is subject to this requirement because alcoholism or drug addiction is a contributing factor material to his or her disability would be included in SSA's award notice informing the individual of entitlement to benefits.

For DI beneficiaries on the rolls, the treatment requirement would become effective the month following the month in which SSA provides notification that alcoholism or drug addiction is a contributing factor material to the individual's disability and that, as a consequence, he or she is required to undergo treatment, if available, as a condition of eligibility.

*e. Appropriate Treatment and Standards for Compliance**Present law*

Under the SSI program, alcoholics and drug addicts must undergo "any treatment which may be appropriate for their condition at an institution or facility approved by the Secretary (so long as such treatment is available)." There is no parallel requirement in the DI program.

House bill

DI and SSI recipients whose alcoholism or drug addiction is a contributing factor material to their disability would be required to undergo any medical or psychological treatment that is appropriate for the individual's addiction and for the stage of the individual's rehabilitation, at an approved facility.

The Secretary, in consultation with drug and alcohol treatment professionals, would be required to issue regulations further defining appropriate treatment and compliance, and to establish guidelines for evaluating compliance, including measures of the progress expected of participants.

Senate amendment

Similar provision, but excludes the requirement that the Secretary issue regulations defining compliance with treatment.

Conference agreement

The conference agreement follows the House bill, except that the requirement to undergo "any medical or psychological treatment" would be replaced with a requirement to undergo "appropriate substance abuse treatment." This change is intended to assure that SSA continues to treat organizations such as Alcoholics Anonymous as qualified treatment providers.

The conferees anticipate that, in addition to issuing regulations, SSA will develop specific guidelines for assessing compliance. These guidelines should be consistent with the thrust of the regulations. However, the conferees expect that the guidelines will be altered from time to time, based on improved medical understanding of addiction.

f. Benefit Suspension for Noncompliance With Treatment

Present law

SSI law requires disabled alcoholics and drug addicts to participate in treatment, if available, as a condition of eligibility. It does not, however, specify the timing and duration of benefit suspensions for failure to comply with this requirement. There is no parallel requirement for the DI program.

House bill

Benefits would be suspended for DI and SSI disability beneficiaries who fail to undergo or comply with required treatment for drug addiction or alcoholism. (Medicare benefits would continue during the period of DI suspension, as would Medicaid benefits for suspended SSI recipients). To qualify for benefit reinstatement, DI and SSI recipients would have to demonstrate compliance with treatment for progressively longer periods—two months, three months, and six months for the first, second, third (and subsequent) instances of noncompliance, respectively. An individual's DI or SSI benefits would be terminated after he or she was suspended for 12 consecutive months. As under current law, terminated individuals could reapply for benefits.

Senate amendment

The individual must demonstrate in such manner as the Secretary requires, including at a continuing disability review not later than 1 year after the determination of disability, that the individual is complying with the terms and conditions of treatment. If the Secretary finds that an individual is not complying, the Secretary, in lieu of termination, may suspend benefits until compli-

ance is reestablished, including compliance with any additional requirements the Secretary determines necessary.

Conference agreement

The conference agreement follows the House bill, except that suspensions would become effective the month following notification by SSA of the noncompliance and resulting suspension, rather than the month of noncompliance. (An individual may be determined as failing to comply for a month only if treatment is available for the month.)

g. Referral and Monitoring Activities and Report on Testing

Present law

The Secretary of HHS must provide for the monitoring and testing of all SSI recipients whose alcoholism or drug addiction is a contributing factor material to their disability. There is no parallel requirement for the DI program.

House bill

The Secretary would be required to establish a referral and monitoring agency for each State. These agencies would identify appropriate placements for DI and SSI recipients who are drug addicts and alcoholics, refer them to such treatment, monitor compliance, and report failures to comply to the Secretary. The Secretary would also be required to provide for the testing of DI beneficiaries, as is currently required under the SSI program.

The Secretary would be required to submit annual reports to Congress on required testing and referral and monitoring activities for DI beneficiaries, as is currently required in the SSI program. These reports would indicate the number and percentage of DI and SSI substance abusers who did not receive regular testing during the year.

Senate amendment

Within 1 year of enactment, the Secretary of HHS would be required to provide for the establishment of referral and monitoring agencies for each State, as well as for the testing of DI beneficiaries, as is currently required under the SSI program.

Conference agreement

The conference agreement follows the House bill with minor drafting modifications and with an amendment replacing the requirement for annual reports with a one-time report, due December 31, 1996. Thereafter, annual reports on testing and referral and monitoring activities would no longer be required under the SSI program.

In requiring SSA to provide drug testing, the conferees intend that this authority be used as a tool for assessing compliance with treatment in those instances where a test is likely to yield important information. This provision should not be interpreted as requiring random drug or alcohol testing of all DI and SSI beneficiaries who are disabled by alcoholism or drug addiction.

*h. 36-Month Limit**Present law*

No provision.

House bill

DI and SSI benefits (including retroactive benefits) for individuals whose drug addition or alcoholism is a contributing factor material to their disability would be terminated after 36 months of entitlement. Once terminated, the individual would not be entitled to any future benefits if alcoholism or drug addition were a contributing factor material to the disability termination. For those beneficiaries on the rolls 180 days after enactment of this provision, the first month ending after 180 days after enactment would be treated as the first month of entitlement for the purpose of determining their 36-month period of entitlement.

Senate amendment

In no event would an individual be entitled to benefits for more than a total of 36 months (excluding periods of suspension) unless upon the termination of the 36th month the individual furnishes evidence that the individual is under a disability which is not related in part to a medical determination that the individual is a drug addict or alcoholic.

Conference agreement

SSI recipients whose alcoholism or drug addiction is a contributing factor material to SSA's determination that they are disabled would be terminated from the rolls after receiving 36 months of benefits unless they are disabled for some reason other than alcoholism or drug addiction. The 36-month limit would be applied to DI substance abusers beginning when treatment becomes available. DI substance abusers would be terminated after receiving benefits in treatment for 36 months, unless they are disabled for some reason other than substance abuse. The conferees expect that SSA will notify DI and SSI beneficiaries well in advance of the 36-month termination that benefits will be ceased, unless the individual provides evidence that he or she is disabled independent of alcoholism or drug addiction.

For SSI recipients determined eligible for benefits after 180 days after enactment, the 36-month limit would begin to toll with the first month for which the individual receives a benefit check. Notification that the individual is subject to the 36-month limit because alcoholism or drug addiction is a contributing factor material to his or her disability would be included in SSA's award notice informing the individual of eligibility for benefits. For SSI recipients on the rolls, the limit would also begin to toll 180 days after enactment; and SSA would be required to notify all affected individuals prior to this date that they are subject to this limit because alcoholism or drug addiction is a contributing factor material to their disability.

For DI beneficiaries (both current and newly-entitled individuals), the limit would begin when treatment becomes available, at

which time SSA would be required to notify the individual that he or she is subject to the limit.

For both groups, only those months for which an individual receives a benefit would be counted toward the 36-month period. (Periods of benefit suspension would be excluded.) An individual whose benefits are terminated as a result of the 36-month limit may not receive benefits for any following month if, in such following month, alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled.

Medicare and Medicaid would be continued beyond the 36-month period so long as the terminated individual continues to be disabled, as would benefits for dependents of terminated DI beneficiaries (see "i").

The provision would sunset the 36-month limit, effective October 1, 2004.

i. Dependents Benefits After 12-Month and 36-Month Termination

Present law

Dependents are entitled to DI benefits only so long as the worker on whose wage record benefits are paid is so entitled.

House bill

Dependents' benefits would be continued for two years after the worker on whose record benefits are paid is terminated from the DI rolls.

Senate amendment

No provision.

Conference agreement

Dependents' benefits would be continued so long as the worker on whose record benefits are paid continues to be disabled.

j. Proration of Retroactive Lump-Sum Benefits

Present law

No provision.

House bill

Retroactive lump-sum DI and SSI disability benefits for individuals whose alcoholism or drug abuse is a contributing factor material to their disability would be prorated and paid gradually. Each monthly payment would be limited to 200 percent of the normal benefit amount.

Senate amendment

Retroactive lump-sum benefits for individuals whose disabilities are related in whole or in part to alcoholism or drug addiction would be paid to a representative payee, who would be charged with managing the individual's finances.

Conference agreement

The conference agreement follows the House bill, with amendments that:

(1) Create an exception for individuals who are at high risk of homelessness because they incurred debts related to housing while awaiting their eligibility decision. The exception would be limited to the amount of the debt;

(2) Provide that, when a beneficiary dies without having received the full amount of his or her retroactive benefits in prorated payments, the unpaid amount would be treated as an underpayment; and

(3) Provide that, when retroactive benefits are owed to an individual whose entitlement ceases due to 12 months of suspension or the 36-month limit, prorated payments would continue through a representative payee until all retroactive benefits are paid.

The conferees are establishing the first exception to help insure that the restrictions being imposed on lump-sum payments will not result in an increased level of homelessness. They expect representative payees to use any amounts so excepted for the sole purpose of repaying housing-related debts.

The second and third exceptions recognize that, once an individual has been determined eligible for DI and SSI benefits, subsequent events—such as failure to comply with required treatment, the imposition of the 36-month limit, or the individual's death—do not negate his or her previous eligibility and resulting right to past-due benefits.

*k. Illegal Activity and SGA**Present law*

No provision.

House bill

In determining whether an individual is engaging in substantial gainful activity, the Secretary must consider services performed or earnings derived from such services without regard to the legality of such services.

Senate amendment

Any proceeds derived from criminal activity undertaken to support substance abuse would be treated as evidence of the individual's ability to engage in substantial gainful activity.

Conference agreement

The conference agreement follows the House bill.

*l. Demonstration Projects**Present law*

No provision.

House bill

The Secretary of HHS would be required to develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches for drug addicts and alcoholics who are subject to a treatment requirement. A report to the Committee on Ways and Means and Committee on Finance would be due no later than December 31, 1997.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with an amendment authorizing the Secretary to include individuals who are not DI or SSI beneficiaries in the projects, to the extent that this is necessary to determine the most effective referral, monitoring, and treatment approaches for DI and SSI beneficiaries. The conferees expect that the Department of Health and Human Service (Substance Abuse and Mental Health Services Administration) and the Social Security Commissioner will coordinate their efforts with respect to such projects.

m. Effective Date

In general, the provision would take effect 180 days after enactment.

3. ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS

(Sec. 202 of the House bill and sec. 301 of the conference agreement)

Present law

In general, section 201(d) of the Social Security Act requires the Secretary of the Treasury to invest annual surpluses of the Social Security Trust Funds in interest-bearing obligations of the U.S. government. Under current Treasury practice, these holdings are recorded as entries on a ledger. No physical documents are required to be issued to the Trust Funds evidencing these obligations.

House bill

The provision would require that each obligation issued for purchase by the Social Security Trust Funds be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury. The physical document would state the principal amount, date of maturity, and interest rate of the obligation. It would also state on its face that: must " * * * the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest."

In addition, interest on such obligations would be paid to the Trust Funds with paper checks drawn on the general fund.

Effective date.—The provision would apply with respect to obligations issued, and payments made, after 60 days after the date of enactment. No later than 60 days after enactment, the Secretary of the Treasury would be required to issue to the Social Security Trust Funds physical documents in the form of bonds, notes, or certificates of indebtedness for all outstanding Social Security Trust Fund obligations.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would apply with respect to the obligations issued, and payments made, after 60 days after the date of enactment. No later than 60 days after enactment, the Secretary of the Treasury would be required to issue to the Social Security Trust Funds physical documents in the form of bonds, notes, or certificates of indebtedness for all outstanding Social Security Trust Fund obligations.

4. GAO STUDY REGARDING TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION

(Sec. 203 of the House bill and sec. 302 of the conference agreement)

Present law

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), requires SSA to: (a) maintain telephone access to local offices at the level generally available as of September 30, 1989, and (b) relist the numbers of affected offices in local telephone directories. P.L. 101-508 also required the General Accounting Office to report to Congress on the level of public telephone access to local offices following enactment of these requirements.

In September 1991, the GAO reported that SSA had generally complied with the requirement that it relist local office telephone numbers. It also reported that general inquiry lines to the offices to which the provisions of P.L. 101-508 apply had decreased by 30 percent, or 766 lines, below the level that existed on September 30, 1989.

House bill

The provision would add the following sentence to the current statutory requirement that SSA maintain public access to its local offices at the level generally available on September 30, 1989: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service at least the same number of telephone lines to each such local office as was in place as of such date, including telephone sets for connections to such lines."

In addition, the General Accounting Office would be required to make an independent determination of the number of telephone lines to each SSA local office which are in place as of 90 days after enactment and to report its findings to the House Committee on

Ways and Means and the Senate Committee on Finance no later than 150 days after enactment.

SSA would be required to maintain its toll-free service at a level at least equal to that in effect on the date of enactment.

Senate amendment

No provision.

Conference agreement

The provision would require the General Accounting Office to assess SSA's use of innovative technology (including attendant call and voice mail) to increase public telephone access to local Social Security offices (including a separate assessment of the impact of such technology on offices to which public access was curtailed on October 1, 1989.) The conferees expect that, as part of this assessment, GAO will evaluate the telephone access demonstration projects using attendant call and voice mail that SSA has indicated that it is about to begin. A report to the House Committee on Ways and Means and the Senate Committee on Finance would be due no later than January 31, 1996.

Effective date.—Upon enactment.

5. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE

(Sec. 204 of the House bill and sec. 303 of the conference agreement)

Present law

Election workers who earn less than \$100 per year are subject to three Social Security exclusions: (a) at the option of a State, they may be excluded from the State's voluntary coverage agreement with the Secretary of Health and Human Services (HHS); (b) they are excluded from the requirement that State and local workers hired after March 31, 1986, pay the hospital insurance portion of the Social Security tax (1.45 percent); and (c) they are excluded from the requirement in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) that State and local workers who are neither covered by a State or local retirement system or by a voluntary agreement to pay the full Social Security tax (7.65 percent).

House bill

These three exclusions would be modified to apply to election workers with annual earnings of up to \$1,000, rather than the current \$100; and the new exempt amount would be indexed for increases in wages in the economy.

Effective date.—The provision would apply to services performed on or after January 1, 1995. Modifications of State voluntary agreements to reflect the higher exclusion for election workers would be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that there would be no adjustments in the threshold for wage increases before January 1, 2000.

Effective date.—The provision would apply to services performed on or after January 1, 1995. Modifications of State voluntary agreements to reflect the higher exclusion for election workers would be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.

6. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES

(Sec. 205 of House bill and sec. 304 of the conference agreement)

Present law

The Privacy Act of 1974 prohibits States from requiring individuals to provide Social Security numbers for identification purposes unless the State was doing so prior to January 1, 1975, or the State is specifically permitted to do so under Federal law. The Social Security Act currently authorizes States to use the Social Security number in administration of any tax, general public assistance and driver's license or motor vehicle registration law within its jurisdiction. Other Federal statutes authorize the State use of the Social Security number for other purposes.

Currently, courts utilize jury source lists within their jurisdiction to select jurors. Source lists (most commonly) made up of lists of licensed drivers and registered voters) are usually computer tapes merged by the courts to form one pool—or master list—from which jurors are selected.

States which are permitted under current law to collect Social Security numbers for purposes such as driver's licenses and voter registration are not allowed to use those Social Security numbers for other purposes such as refining jury selection master lists to identify and eliminate duplicate names, unless the court was using the Social Security number for that purpose before the Privacy Act took effect.

Current law likewise prevents State and Federal Courts from using the Social Security number to run the merged list against computerized lists of convicted felons in order to eliminate these individuals from jury pools.

House bill

States and Federal District Courts would be permitted to use Social Security numbers which have already been collected for purposes permitted under current law to eliminate duplicate names and names of convicted felons from jury source lists. Any Federal law enacted prior to enactment of this provision which is inconsistent with the above policy would be null, void and of no effect.

Effective date.—The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective upon enactment.

7. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICE OFFICERS AND FIREFIGHTERS UNDER EXISTING COVERAGE AGREEMENTS

(Sec. 206 of the House bill and sec. 305 of the conference agreement)

Present law

In general, employees of State and local governments who participate in a public retirement system can be brought under Social Security by means of voluntary agreements entered into by the States with the Secretary of Health and Human Services.

However, the State option to obtain Social Security coverage for police officers and firefighters who are under a public retirement system applies only in 24 States that are named in the Social Security Act. (An additional option applies with respect to firefighters only: any State may obtain coverage for them if the governor certifies that it would improve the overall benefit protection of firefighters in the coverage group and a referendum is held among the group under authorization of the State.) The Act also provides that, in the 24 named States, Social Security coverage can be obtained only after a State-sponsored referendum.

House bill

The provision would extend to all States the option to provide police officers and firefighters who participate in a public retirement system with Social Security coverage under their voluntary agreements with the Secretary of HHS. The existing requirement for a referendum held under the authority of the State would continue to apply.

Effectively date.—The provision would apply with respect to modifications filed by States after enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would apply with respect to modifications filed by States after enactment.

8. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN
SELF-EMPLOYMENT TAX LIABILITY

(Sec. 207 of the House bill and sec. 306 of the conference
agreement)

Present law

Section 233(c)(1) of the Social Security Act authorizes the President to enter into "totalization agreements" with foreign countries to coordinate entitlement to Social Security benefits in the U.S. with pension benefits in those foreign countries. The law requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of work under the Social Security systems of the United States and another country.

Article V(7) of the totalization agreement between the United States and Canada provides that individuals considered self-employed by the United States who are American citizens but are residents of Canada are covered only under the Canadian Pension Plan.

Under the Social Security Act, an individual who is duly ordained, commissioned, or licensed minister of a church or a member of a religious order is generally considered self-employed for Social Security payroll tax purposes and subject to SECA taxes.

The Canadian social insurance program treats ministers as employees of the church rather than self-employed.

Prior to the 1984 totalization agreement with Canada, duly ordained and licensed ministers who were American citizens, but residents of Canada, were required to pay SECA taxes to the United States and Social Security taxes to Canada.

In some cases, ministers who were American citizens, ut residents of Canada, failed to file tax returns or pay SECA tax believing that they were not required to do so because they were paying into the Canadian Pension Plan as residents of Canada. The Internal Revenue Service has assessed taxes and penalties against those ministers who failed to file a return and pay the required taxes prior to the 1984 agreement.

House bill

The provision would exempt ministers who failed to pay SECA taxes in the United States on earnings from services performed in Canada for a period before the 1984 totalization agreement between the United States and Canada went into effect, and who were required to pay social insurance taxes in Canada on such earnings, from the payment of such taxes or related penalties, owed to the United States.

The ministers' Social Security earnings records would not be credited for years in which the SECA tax was not paid.

Effective date.—The provision would be effective for individuals who meet the requirements of the statute and who file a certificate with the Internal Revenue Service within 180 days after the IRS issues regulations implementing this provision. The certificate shall be effective for taxable years 1979 through 1984.

The Social Security benefit for current Social Security beneficiaries who file certificates under this provision, would be recomputed for months following approval of the certificate of exemption.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective for individuals who meet the requirements of the statute and who file a certificate with the Internal Revenue Service within 180 days after the IRS issues regulations implementing this provision. The certificate shall be effective for taxable years 1979 through 1984.

The Social Security benefit for current Social Security beneficiaries who file certificates under this provision would be recomputed for months following approval of the certificate of exemption.

9. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION

(Sec. 208 of the House bill and sec. 307 of the conference agreement)

Present law

The President is authorized to enter into "totalization agreements" with foreign countries. If an individual has worked under Social Security systems in both the U.S. and a foreign country with which the U.S. has such an agreement, but has not worked long enough to qualify for a benefit, a totalization agreement allows the individual's coverage under both systems to be combined, or "totalized," in order for one country (or both) to pay a benefit. Benefits paid under a totalization agreement are generally prorated to take account of the fact that the person did not work for an entire career under the system that is paying benefits.

The windfall elimination provision (WEP) is applied to the computation of Social Security benefits for workers who are eligible for both Social Security and a pension from work not covered by Social Security. Under the WEP, a different benefit formula yielding a lower amount is used to calculate the worker's Social Security benefit.

With respect to individuals who have worked under Social Security systems in both the United States and a foreign country with which the United States has a totalization agreement, the WEP applies: 1) in the computation of some U.S. totalization benefits, and 2) in the computation of regular U.S. Social Security benefits if the individual receives a foreign totalization benefit.

House bill

The provision would disregard the windfall elimination provision in computing any U.S. totalization benefit, and in computing the amount of a regular U.S. benefit of an individual who (1) receives a foreign totalization benefit based in part on U.S. employment and (2) does not receive any other pension which is based on non-covered employment

Effective date.—The provision would be effective with respect to benefits payable for months after January, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective with respect to benefits payable for months after December, 1994.

10. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND THE WINDFALL ELIMINATION PROVISIONS

(Sec. 209 of the House bill and sec. 308 of the conference agreement)

Present law

The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are intended to reduce Social Security benefits payable to an individual who qualifies for both a Social Security benefit and a pension based on employment not covered by Social Security.

The WEP reduces a worker's Social Security retirement or disability benefit in cases where the worker is receiving both a Social Security benefit and a pension based on employment not covered by Social Security. The WEP is designed to eliminate the windfall resulting from the weighted Social Security benefit formula which is intended to replace a higher proportion of wages for low-earning workers than for high-earning workers.

Active military service became covered under Social Security in 1957. Inactive duty by reservists (such as weekend drills) became covered under Social Security in 1988. A pension based on either type of service (active or inactive), if performed before 1957, does not trigger the WEP. The only military pension which triggers the WEP is a pension based on inactive duty after 1956 and before 1988.

Under the GPO, spouse's and widow(er)'s benefits received by an individual based on his or her spouse's Social Security-covered work are reduced by two-thirds of the amount of any government pension to which the individual is entitled based on his or her own work in a government job not covered under Social Security.

House bill

An individual's receipt of a pension based wholly on service performed as a member of a uniformed service, whether on active or inactive duty and whether performed prior to 1988 or not, would not trigger application of the GPO and WEP to the individual's Social Security benefits.

Effective date.—The provision would be effective with respect to benefits payable for months after January, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective with respect to benefits payable for months after December, 1994.

11. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION

(Sec. 210 of the House bill and sec. 309 of the conference agreement)

Present law

As a general rule, when an individual receiving benefits as the dependent of a worker has a deduction in his or her benefits—for example, due to his or her own earnings exceeding the earnings test exempt amount—and the Maximum Family Benefit rule applies, the withheld benefits are redistributed and paid to other dependents. (The Maximum Family Benefit, or MFB, is a limit on the total amount of benefits which can be paid on a worker's record to the worker and his or her dependents.)

However, if all of the dependents are living in the same household, the affected individual's benefit check is not actually withheld; instead, the individual receives a notice from the Social Security Administration accompanying the benefit check. This notice explains that the beneficiary is subject to a benefit deduction and should not actually receive the benefit check. However, the benefit is being paid with the understanding that it is for the use and benefit of the other dependent beneficiaries. This procedure is known as the facility-of-payment provision.

In cases where all the dependent beneficiaries are not residing in the same household, the facility-of-payment provision does not apply and the withheld benefits are redistributed and paid directly to the remaining dependents.

House bill

The facility-of-payment provision would be repealed. As a result, a beneficiary who is subject to a deduction would have his or her benefits withheld, and the withheld amount would be redistributed and paid directly to the other dependents.

Effective date.—The provision would be effective for benefits payable for months after December, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective for benefits payable for months after December, 1995.

12. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES

(Sec. 211 of the House bill and sec. 310 of the conference agreement)

Present law

A guarantee is provided for workers who receive disability benefits, then stop receiving disability benefits, and subsequently become reentitled to benefits due to death, retirement or disability. This "subsequent entitlement guarantee" provides that the basic benefit amount (the Primary Insurance Amount, or PIA) of a worker who becomes reentitled to benefits or dies (thereby entitling his or her survivors) cannot be less than the PIA in effect in the last month of the worker's prior entitlement to disability benefits.

Due to a drafting error in the 1977 Social Security Amendments, the guarantee does not extend to the Maximum Family Benefit (MFB) payable on the worker's record, which is determined based upon the PIA. (The MFB is a limit on the total amount of benefits which may be paid on a worker's record to the worker and his or her dependents.) As a result, the MFB which is payable when the worker becomes reentitled to benefits or dies may be less than the MFB payable in the last month of the worker's prior entitlement to disability benefits.

House bill

The provision would make a conforming change in the Maximum Family Benefit, so that the guaranteed PIA would be the basis for calculating the guaranteed Maximum Family Benefit.

Effective date.—The provision would be effective for the MFB of workers who become reentitled to benefits or die (after previously having been entitled) after January, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective for the MFB of workers who become reentitled to benefits or die (after previously having been entitled) after December, 1995.

13. AUTHORIZATION FOR DISCLOSURE OF SOCIAL SECURITY ADMINISTRATION INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH

(Sec. 212 of the House bill and sec. 311 of the conference agreement)

Present law

Current law prohibits Federal agencies from releasing personal information contained in an individual file without the written consent of the individual.

Prior to the 1989 Supreme Court decision *United States Department of Justice v. Reporters Committee for Freedom of the Press* (Reporters Committee), the Social Security Administration (SSA) would permit disclosure of personally identifiable information to epidemiological researchers believing that it was permitted to do so under the Freedom of Information Act (FOIA). Disclosure of personal information is permitted under FOIA when the public

interest served by the disclosure outweighs the privacy interest served by withholding and information.

In the Reporters Committee decision, the Supreme Court restricted disclosures of personally identifiable information under FOIA, ruling that disclosure of personal information serves the public interest only when the requested information gives the public insight into the Federal government's performance of its statutory duties.

As a result of the Reporters Committee decision, SSA has discontinued the practice of disclosing information from its files to epidemiological researchers.

Epidemiological research examines specific risk factors (such as exposure to chemical agents or specific medical treatments) that may cause disease by measuring the effect of these factors on a known population.

House bill

The provision would require SSA, under certain circumstances, to disclose limited personally identifiable information for epidemiological research purposes only, and it would permit the Secretary of the Treasury to provide such information to SSA for purposes of complying with such requirement.

Under the provision, SSA would be required to comply with requests for information showing whether an individual is alive or deceased. The requester would be required to meet two conditions:

(1) the information would be used for epidemiological or similar research which the Secretary determined showed a reasonable promise of contributing to a national health interest; and

(2) the requester agrees to reimburse the Secretary for providing such information and agree to comply with limitations on safeguarding and rerelease or redisclosure of such information, as specified by the Secretary. The Secretary would not be required to comply with a request for information if doing so would constitute a violation of a contract entered into with a State for the provision by the State of death information.

The Secretary of the Treasury would be permitted to provide such information to SSA for purposes of complying with such a requirement.

Effective date.—The provision would apply to requests for information made after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would apply to requests for information made after the date of enactment.

14. MISUSE OF SYMBOLS, EMBLEMS OR NAMES IN REFERENCE TO SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR DEPARTMENT THE OF TREASURY

(Sec. 213 of the House bill and sec. 312 of the conference agreement)

Present law

In 1988, Congress enacted a provision prohibiting the use of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) in a manner that the user knows or should know would convey the false impression that such an item was approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services, or that the user has some connection with, or authorization from, these agencies.

The law permits the Secretary of Health and Human Services (HHS) to impose civil monetary penalties not to exceed \$5,000 per violation or, in the case of a broadcast or telecast, \$25,000 per violation. The total amount of penalties which may be imposed is limited to \$100,000 per year.

Amounts collected by the Secretary are deposited as miscellaneous receipts of the Treasury of the United States.

There is no provision in present law prohibiting the use of titles, symbols, emblems, and names of the Department of the Treasury (and its subsidiary agencies) in connection with advertisements, mailings, solicitations, or other business activities.

House bill

The provision would amend current law to:

- (a) eliminate the annual cap on penalties;
- (b) also prohibit the use of words and letters of the Department of Health and Human Services, Supplemental Security Income Program, or Medicaid, and the symbols or emblems of the Department of Health and Human Services;
- (c) define a "violation," with regard to mailings, as each individual piece of mail in a mass mailing;
- (d) Further prohibit the use of names, letters or emblems of SSA, HCFA, or HHS in a manner that reasonably could be interpreted to convey a relationship with these agencies;
- (e) exempt from the prohibition the use by any State agency or instrumentality of a State, or political subdivision of any words, letters, symbols, or emblems which identify an agency or instrumentality of the State or political subdivision;
- (f) repeal the present law requirement that the Department of Health and Human Services obtain a formal declination from the Department of Justice (DOJ) before pursuing a civil monetary penalty case under this provision;
- (g) provide that penalties collected by the Secretary for violations of this provision would be deposited in the Old-Age and Survivors Insurance, Health Insurance or Supplementary Medical Insurance Trust Funds as applicable;

(h) stipulate that no person may reproduce, reprint, or distribute for a fee any form, application, or other publication of the Social Security Administration unless such person has obtained specific written authorization for such activity in accordance with regulations prescribed by the Secretary;

(i) provide that any determination of whether there is a violation of this provision shall be made without regard to a disclaimer;

(j) require the Commissioner of Social Security and the HHS Secretary to issue three reports to the Committee on Ways and Means and the Committee on Finance on the operation of section 1140 as applicable. The report would specify: (1) the number of complaints of violations of section 1140 received by the Social Security Administration or the Department of Health and Human Services during the period covering the report; (2) the number of cases in which a notice of violation of section 1140 was sent by the Social Security Administration or the Department of Health and Human Services during the period covering the report requesting that an individual cease activities in violation of this section; (3) the number of cases in which a civil monetary penalty was formally proposed in a demand letter during the period covering the report by the Social Security Administration or the Department of Health and Human Services; (4) the total amount of civil monetary penalties assessed under this section during the period covered by the report by the Social Security Administration or the Department of Health and Human Services; (5) the number of requests for hearings filed during the period covering the report pursuant to subsection (c)(1) of this section and section 1128A(c)(2) by the Social Security Administration or the Department of Health and Human Services; (6) the disposition during the period covering the report of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2), and (7) the total amount of civil monetary penalties collected under this section and deposited into the Federal Old-Age and Survivors Insurance, Health Insurance and Supplementary Medical Insurance Trust Funds, as applicable, during the period covering the report. The reports would be due December 1, 1995, December 1, 1997, and December 1, 1999;

(k) specify that the provisions in section 1140 may be enforced by the Office of Inspector General of the Social Security Administration or the Office of Inspector General of the Department of Health and Human Services. The provisions for Social Security and the Department of Health and Human Services would be effective for violations occurring after March 31, 1995.

The provision would prohibit the use in advertisements, solicitations, and other business activities of words, abbreviations, titles, letters, symbols, or emblems associated with the Department of the Treasury (and services, bureaus, offices or subdivisions of the Department, including the Internal Revenue Service) in a manner which could reasonably be interpreted as conveying a connection with or approval by the Department of the Treasury.

The bill would establish civil penalty of not more than \$5,000 per violation (or not more than \$25,000 in the case of a broadcast or telecast). In addition, the bill would establish a criminal penalty of not more than \$10,000 (or not more than \$50,000 in the case of a broadcast or telecast) or imprisonment of not more than one year,

or both, in any case in which the prohibition is knowingly violated. Any determination of whether there is a violation would be made without regard to the use of a disclaimer of affiliation with the Federal Government. The Secretary of the Treasury would be required to provide to the Committee on Ways and Means and the Committee on Finance, no later than May 1, 1996, a report on enforcement activities relating to the implementation of the provision.

Effective date.—The provisions would apply with respect to violations occurring after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provisions would apply with respect to violations occurring after the date of enactment.

15. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION

(Sec. 214 of the House bill and sec. 313 of the conference agreement)

Present law

Each year, the Social Security Administration (SSA) receives and maintains earnings information, including the names and addresses of employers, on over 130 million working Americans in its computer system. Employers are required to file annually with the Social Security Administration copies of their workers' W-2 statements. The statements contain the worker's Social Security numbers and the amount of wages the workers received during the year. In addition, each SSA file contains an individual's birth certificate information, such as date of birth, father's name and mother's maiden name. For those receiving Social Security benefits, the file contains a current address and monthly benefit amounts.

The Social Security Act includes provisions which prohibit the unauthorized disclosure of information contained in Social Security Administration files. The Act provides that any person who violates these provisions and makes an unauthorized disclosure can be found guilty of a misdemeanor and, upon conviction, punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both.

House bill

The provision stipulates that unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act would be a felony. Each occurrence of a violation would be punishable by a fine not exceeding \$10,000 or by imprisonment not exceeding five years, or both.

Effective date.—The provision would apply to violations occurring on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would apply to violations occurring on or after the date of enactment.

16. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO
FILE ANNUAL EARNINGS REPORT

(Sec. 215 of the House bill and sec. 314 of the conference
agreement)

Present law

In general, individuals under age 70 who receive Social Security retirement or survivors benefits must file an annual report of their earnings with the Social Security Administration for any taxable year in which their earnings or wages exceed the annual exempt amount of earnings under the Social Security earnings test. These reports are due to be filed by the same date as Federal income tax returns, the fifteenth day of the fourth month after the close of the taxable year (normally April 15). Individuals may be granted a reasonable extension of time for filing an earnings report if there is a valid reason for delay, but not more than 3 months. An extension of time for filing an income tax return may be granted for up to 4 months.

House bill

The time for which an extension could be granted for filing an earnings report would be increased to 4 months.

Effective date.—The provision would be effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

17. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION
PROJECT AUTHORITY

(Sec. 216 of the House bill and sec. 315 of the conference
agreement)

Present law

Section 505(a) of the Social Security Disability Insurance Amendments of 1980 (P.L. 96-265), as extended by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-508), authorizes the Secretary of Health and Human Services to waive compliance with the benefit requirements of titles II and XVIII for purposes of conducting work incentive demonstration projects to encourage disabled beneficiaries to return to work. The authority to waive com-

pliance applies to projects initiated prior to June 10, 1993. A final report is due no later than October 1, 1993.

House bill

The Secretary's authority to initiate disability work incentive demonstration projects that waive compliance with benefit provision (as provided in P.L. 96-265) would be extended through June 9, 1996. A final report would be due no later than October 1, 1996.

Effective Date.—The provisions would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provisions would be effective upon enactment.

18. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER MAINTAINED BY THE DEPARTMENT OF AGRICULTURE

(Sec. 217 of the House bill and sec. 316 of the conference agreement)

Present law

The Department of Agriculture is allowed to collect and maintain a list of names, Social Security numbers and employer identifications numbers of the owners and officers of retail grocery stores which redeem food stamps. The list is used to keep track of grocery store operators who have been sanctioned for violations under the Food Stamp Act.

House bill

The provision would permit the Secretary of Agriculture to share the list of names and identifying numbers with other Federal agencies which otherwise have access to Social Security account numbers for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for investigating violations of other Federal laws, or enforcement of such laws. The Secretary of Agriculture must restrict access to Social Security account numbers obtained pursuant to this provision to officers and employees of United States whose duties or responsibilities require access for such purposes.

Effective date.—The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective upon enactment.

19. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE
PERMANENT

(Sec. 218 of the House bill and sec. 317 of the conference
agreement)

Present law

A portion of the railroad retirement tier 2 benefits are included in gross income of recipients (similar to the treatment accorded recipients of private pensions) for Federal income tax purposes. The proceeds from the income taxation of railroad tier 2 benefits received prior to October 1, 1992, have been transferred from the General Fund of the Treasury to the railroad retirement account. Proceeds from the income taxation of benefits received after September 30, 1992, remain in the General Fund.

House bill

The transfer of proceeds from the income taxation of railroad retirement tier 2 benefits from the General Fund of the Treasury to the railroad retirement account would be made permanent.

Effective date.—The provision would be effective for income taxes on benefits received after September 30, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective for income taxes on benefits received after September 30, 1992.

20. AUTHORIZATION FOR USE OF SOCIAL SECURITY ACCOUNT NUMBERS
BY DEPARTMENT OF LABOR IN ADMINISTRATION OF FEDERAL WORKERS'
COMPENSATION LAWS

(Sec. 219 of the House bill and sec. 318 of the conference
agreement)

Present law

The Privacy Act of 1974 prohibits a Federal agency from using the Social Security number as an identification number unless it is specifically permitted by statute. There is no specific statutory authorization to permit the Department of Labor to use the Social Security number as an identification number.

House bill

The provision would amend section 205 of the Social Security Act to permit the Department of Labor to use the Social Security number as the claim identification number for workers' compensation claims.

Effective date.—The provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would be effective upon enactment.

21. COVERAGE UNDER FICA OF FEDERAL EMPLOYEES TRANSFERRED
TEMPORARILY TO INTERNATIONAL ORGANIZATIONS

(Sec. 220 of the House bill and sec. 319 of the conference agreement)

Present law

Federal employees participating in the Civil Service Retirement System are entitled to retain retirement coverage rights and benefits when they are temporarily loaned by a Federal agency to an international organization.

The definition of employment in the Social Security Act prohibits Federal employees participating in the Federal Employees Retirement System (FERS) or the Foreign Service Pension System (FSPS) (which in general provide Federal employees hired on or after January 1, 1984, with both Social Security coverage and a supplemental government pension) from continuing to contribute to Social Security if they transfer to international organizations.

House bill

The provision would amend section 210 of the Social Security Act and section 3121 of the Internal Revenue Code of 1986 to cover, in certain cases, service performed in the employ of an international organization pursuant to a transfer from a Federal agency under the definition of employment. Under this provision, the employing agency would be responsible for reporting the employee's wages and for paying the employer's share of FICA. The employee would be responsible for paying the employee's share.

Effective date.—The provision would apply with respect to service performed after the calendar quarter following the calendar quarter of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would apply with respect to service performed after the calendar quarter following the calendar quarter of enactment.

22. EXTENSION OF THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101 OF THE IMMIGRATION AND NATIONALITY ACT

(Sec. 221 of the House bill and sec. 320 of the conference agreement)

Present law

The Mutual Educational and Cultural Exchange Act of 1961 (P.L. 87-256) established section 101(a)(15)(J) of the Immigration and Nationality Act under which so-called J visas are authorized to be issued for a limited period of time to aliens who are bona fide students, scholars, trainees, teachers, professors, research assistants, specialists, or leaders in a field of specialized knowledge or skill.

The 1961 Act also provided that wages paid to individuals who enter the country on a J visa would be exempt from FICA, FUTA, and Railroad Retirement Act taxes. In addition, employers who hire J visa holders are not required to receive certification from the Department of Labor that an insufficient number of U.S. workers are available to meet their needs.

The Immigration Act of 1990 added section 101(a)(15)(Q), which provides for the issuance of a visa to "an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program approved by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers."

The Internal Revenue Code presently does not exempt wages paid to individuals who enter the U.S. under Q visas from FICA, FUTA, or Railroad Act taxes.

House bill

The provision amends the Internal Revenue Code to exclude wages paid to aliens holding Q visas from FICA, FUTA, and Railroad Retirement Act taxes, and, for income tax purposes, treats their income in the same manner as income received by aliens holding visas issued pursuant to section 101(a)(15)(J).

Effective date.—The provision would take effect with the calendar quarter following the calendar quarter of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—The provision would take effect with the calendar quarter following the calendar quarter of enactment.

23. STUDY RISING COST OF DISABILITY INSURANCE BENEFITS

(Sec. 222 of the House bill)

Present law

In their 1993 and 1994 annual report to Congress, the Social Security Board of Trustees reported that, under intermediate economic assumptions, the Disability Insurance Trust Fund would become insolvent during 1995. To address this problem, the Trustees recommended a reallocation of the Social Security payroll tax rate from the OASI Trust Fund to the DI Trust Fund.

In addition to the reallocation, the Board recommended that a significant research effort be undertaken to establish whether higher-than-expected DI program costs are a temporary trend or longer-term phenomenon.

House bill

The Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the Disability Insurance program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1994, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and making any recommendations for legislative changes which the Secretary determines appropriate. The study would be due no later than December 31, 1994.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

24. COMMISSION ON CHILDHOOD DISABILITY

(Sec. 223 of House bill and sec. 202 of the conference agreement)

Present law

No provision.

House bill

The Secretary would be directed to appoint a Commission on the Evaluation of Disability in Children, consisting of not less than 9 but not more than 15 members including recognized experts in relevant fields of medicine; recognized experts in psychology, education and rehabilitation, law, administration of disability pro-

grams; social insurance; and other experts determined appropriate by the Secretary.

The Commission would conduct a study, in consultation with the National Academy of Sciences, on the effect of the current Supplemental Security Income definition of disability, as it applies to children under the age of 18 and their receipt of services, including the effect of using an alternative definition.

The study shall include issues of (1) whether the need by families for assistance in meeting the high costs of medical care for children with serious physical or mental impairments might appropriately be met through expansion of Federal health assistance programs; (2) the feasibility of providing benefits to children through non-cash means, including vouchers, debit cards, and electronic benefits transfer systems; (3) the extent to which SSA can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity; (4) the feasibility of providing retroactive SSI benefits pursuant to the Zebley decision on a prorated basis or by means of a packaged trust; (5) methods to increase the extent to which benefits are used in the effort to assist the child achieve independence and engage in substantial gainful activity; and (6) such other issues as the Secretary determines appropriate.

The Commission would submit a report on the results of this study, together with any recommendations, to the Committees on Finance and Ways and Means, no later than November 30, 1995.

Effective date.—Upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement generally follows the House bill, but broadens the study to include: (1) the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity, and (2) the effects of the current program on disabled children and their families.

The conferees expect that the Commission, in conducting its study, will hold public hearings to hear the views and perspectives of all parties who are interested in or concerned about the SSI childhood disability program, including parents of children who receive benefits, educators, and representatives of non-profit organizations serving children with physical and mental disabilities.

Effective date.—Upon enactment.

25. DISREGARD OF DEEMED INCOME AND RESOURCES OF INELIGIBLE SPOUSE IN DETERMINING CONTINUED ELIGIBILITY UNDER SECTION 1619

(Sec. 224 of House bill)

Present law

Under section 1619(a) of the Social Security Act, SSI benefits continue for those working and earning above the substantial gain-

ful activity level, which is currently \$500 per month, as long as there is no medical improvement in the disabling condition. Benefits decline at a rate of \$1 for each additional \$2 earned after disregarding the first \$65 of earned income and the first \$20 of unearned income. In general, the point at which a recipient, who has at least \$20 in monthly unearned income, would be ineligible for cash SSI benefits in a month would be the sum of \$85 plus twice the sum of the Federal benefit and State supplement, if any. For 1994, the "breakeven point" for an individual is \$977 per month without a State supplement. For States with a supplement, the breakeven point increases by \$2 for every \$1 in State supplement.

Under section 1619(b), SSI recipients can continue on Medicaid even if their earnings cause their income to exceed the breakeven point and they no longer receive cash SSI benefits. In 209(b) States, this does not apply. However, in most States, Medicaid continues as long as the SSI recipient: (1) continues to be blind or disabled; (2) except for earnings, continues to meet all of the eligibility requirements; (3) is seriously inhibited from continuing work by termination of eligibility of Medicaid; and (4) has earnings insufficient to provide a reasonable equivalent to cash SSI benefits, Medicaid, and publicly funded attendant care that would have been available if he or she did not have earnings.

In making determinations on the fourth criterion above, SSA compares the individual's gross earnings to a "threshold" amount. The threshold amount is the sum of the break even level for gross earnings of cash benefits for an individual with no other income living in his or her own household plus the average Medicaid expenditures for disabled SSI cash recipients for the State of residence. If the recipient's gross earnings exceeds the threshold, an individualized threshold is calculated which considers the person's actual Medicaid use, State supplement rate, and publicly-funded attendant care. In other words, under the fourth criterion, Medicaid eligibility continues until the individual's earnings reach a higher plateau which takes into account the person's ability to afford medical care, as well as his or her normal living expenses.

An eligible spouse's income and resources are deemed to include the income and resources of his or her ineligible spouse with whom he or she lives. In some cases, SSI recipients who are working and are eligible for Medicaid under section 1619(b) may become ineligible for Medicaid because they marry a person who has sufficient income to render the SSI recipient ineligible for Medicaid. In other cases, the SSI recipient's ineligible spouse might receive additional income which makes the SSI recipient ineligible for Medicaid under the deeming rules.

House bill

In determining an individual's eligibility for Medicaid pursuant to section 1619(b), there would be disregarded (in addition to amounts disregarded under current law): (1) the net income of the individual's ineligible spouse to the extent the spouse's net income does not exceed twice the threshold amount determined for the individual, and (2) the ineligible spouse's resources up to the State's spousal impoverishment resource amount (as defined in section 1924(f)(2) of the Social Security Act).

Effective date.—October 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

26. PLANS FOR ACHIEVING SELF-SUPPORT NOT DISAPPROVED WITHIN 60 DAYS TO BE DEEMED APPROVED

(Sec. 225 of House bill)

Present law

Under a plan for achieving self-support (PASS) certain income and resources are not taken into account in determining eligibility for or the amount of SSI benefits. An approved PASS allows a person who is blind or disabled to set aside the income and resources needed to achieve a work goal. The funds set aside can be used to pay for education, vocational training, or starting a business. The recipient must have a feasible work goal, a specific savings and spending plan, and must provide for a clearly identifiable accounting for the funds which are set aside. The individual must then follow the plan and negotiate revisions as needed.

SSA regulations provide the basic rules for a PASS. Under these rules, the individually designed plan can be for an initial period of at most 18 months but an 18-month extension can be obtained. For participants engaged in lengthy education or training programs, an additional 12-month extension can be obtained. All plans must be approved by SSA before the income and resource exclusions can be excluded. If the recipient attains his or her goal, fails to follow the plan, or time expires, the income and resource exclusions are again countable.

House bill

A plan for achieving self-support (PASS) would be deemed to be approved if SSA has not acted upon a recipient's application within 60 days and shall be deemed to be approved until 6 months after subsequent disapproval.

Effective date.—January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision), but the conferees request that the General Accounting Office conduct a study of the PASS program and procedures since little information is available at this time. The study should include, to the extent available, data for the last five years that show the number and characteristics of individuals who have applied for a plan, the number and characteristics of those who plans have been approved, the kinds of plans that have been approved and their duration, the success of individuals in fulfilling their

plans, and the extent to which individuals who have completed a PASS have become economically self-sufficient. The GAO should also study whether improvements can or should be made in the PASS program or in the process used to approved proposed plans. Findings and recommendations should be reported to the Committee on Finance and Ways and Means.

27. TEMPORARY AUTHORITY TO APPROVE A LIMITED NUMBER OF PLANS FOR ACHIEVING SELF-SUPPORT THAT INCLUDE HOUSING GOALS

(Sec. 226 of the House bill)

Present law

A PASS allows an SSI recipient to shelter income and resources from limits if the funds are set aside to help him or her achieve a work goal. Funds may be set aside for education, vocational training, or starting a business.

House bill

Plans for achieving self-support would be expanded to include housing goals in addition to the current work goals under a 42-month demonstration.

A report on activities under this authority would be due within 12 months after the end of the 5-year period that begins on January 1, 1995.

Effective date.—January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

28. REGULATIONS REGARDING COMPLETION OF PASS

(Sec. 227 of the House bill and sec. 203 of the conference agreement)

Present law

Under current plan for achieving self-support (PASS) regulations, an SSI recipient with a PASS may be eligible for its income and resource exclusions for 18 months, followed by two possible extensions of 18 and 12 months, respectively. An individual involved in a lengthy education program, could receive a PASS for up to 4 years.

House bill

SSA would be required to take into account the difficulty of achieving self-support based on individual needs in determining the time limit on a PASS.

Effective date.—January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with a clarification instructing SSA to take into account the length of time the individual will need to reach the individual's employment goal within such reasonable period as the Secretary establishes, and other factors as are determined by the Secretary to be appropriate. Effective date.—January 1, 1995.

29. TREATMENT OF CERTAIN GRANT, SCHOLARSHIP, OR FELLOWSHIP
INCOME

(Sec. 228 of the House bill)

Present law

Grant, scholarship, and fellowship income are treated as unearned income. The portion of this kind of income that is received for use in paying the cost of tuition and fees at any educational institution is excluded from income.

House bill

Grant, scholarship, and fellowship income would be treated as earned income without regard to the purpose of its use.

Effective date.—Applies to eligibility determinations for any month beginning after the second month following the month of enactment.

Senate Amendment

No provision.

Conference agreement

The conference agreement follows the Senate amendment (i.e., no provision).

30. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD

(Sec. 229 of the House bill and sec. 204 of the conference agreement)

Present law

A recipient who is outside the United States for a full calendar month or more and who is not a child living outside the United States with a parent in the military service, is not eligible for SSI benefits for such month or months. A person who has been outside the United States for 30 consecutive days or more is not considered to be back until he or she has spent 30 consecutive days, in the United States. After an absence of 30 consecutive days, SSI eligibility may resume effective with the day following the 30th day of continuous presence in the United States, if the individual continues to meet all other eligibility criteria.

House bill

SSI recipients who travel outside the United States would be exempt from the calendar month and 30-day time limit if the absence is (1) temporary, and (2) for the purpose of conducting studies as part of an educational program that is designed to prepare

the individual for gainful employment, and is sponsored by a school, college, or university in the United States.

Effective date.—January 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment limiting eligibility to a period not to exceed one year and only if the program is not available to the individual in the United States. Because of the difficulty faced by the Social Security Administration in administering the SSI program while recipients are outside the United States, the conferees intend that this provision will be used sparingly. An example of a qualifying educational program under this provision would be intensive study programs that lead to fluency in a foreign language through immersion in the cultural and social milieu of a country where the language is spoken. Less intensive programs, which are generally available in the United States, would not qualify.

Effective date.—January 1, 1995.

31. DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED
ELIGIBILITY FOR WORK INCENTIVES

(Sec. 230 of the House bill and sec. 205 of the conference
agreement)

Present law

Under section 504 of the Unemployment Compensation Amendments of 1976 (P.L. 94-566), State Medicaid plans are required to provide medical assistance to an individual if he or she: (1) simultaneously received both Social Security and SSI in some month after April 1977; (2) is currently eligible for and receiving OASDI benefits; (3) is currently ineligible for SSI; and (4) receives income that would qualify him or her for SSI after deducting all OASDI cost-of-living adjustment increases received since the last month in which he or she was eligible for both OASDI and SSI. The provision is intended to protect the individual against the loss of Medicaid coverage in many States because of a cost-of-living increase in Social Security benefits. The provision does not explicitly apply to beneficiaries who have Medicaid eligibility under section 1619(b) of the Social Security Act.

House bill

This provision amends section 1619(b) of the Social Security Act to explicitly extend to SSI beneficiaries receiving Medicaid under section 1619(b) protection against the loss of Medicaid coverage because of a cost-of-living increase in their Social Security benefits.

Effective date.—Applies to eligibility determinations for months after December, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

Effective date.—Applies to eligibility determinations for months after December, 1994.

32. EXPANSION OF THE AUTHORITY OF THE SOCIAL SECURITY ADMINISTRATION TO PREVENT, DETECT, AND TERMINATE FRAUDULENT CLAIMS FOR OASDI AND SSI BENEFITS

(Sec. 231 of the House bill, sec. 306 of the Senate amendment, and sec. 206 of the conference agreement)

a. Prevention of fraud in the SSI program by translators of foreign languages

Present law

No provision.

House bill

A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of SSI benefits shall not be regarded as reliable unless the third party, under penalty of perjury, (1) certifies that the translation is accurate, and (2) discloses the nature and scope of the relationship between the third party and the applicant or recipient.

Effective date.—October 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical changes, and is expanded to apply to fraud under the OASDI programs.

Effective date.—October 1, 1994.

b. Civil monetary penalties in SSI and OASDI cases involving fraud

Present law

Federal law provides broad authority for imposing civil penalties against persons who submit fraudulent claims to the Government. There are two applicable Federal statutes. The Civil False Claims Act (CFCA) requires the Government to use the normal judicial process, whereby the Department of Justice initiates a civil action in Federal Court to impose a penalty. The Program Fraud Civil Remedies Act (PFCRA) authorizes an administrative process under which Federal agencies may impose penalties. These statutes are intended to address fraud from a Government-wide perspective, and the process of imposing penalties can be complex and time-consuming. Further, the PFCRA is restricted to initial applications for benefits, in some circumstances, which limits its usefulness for SSI and OASDI purposes.

House bill

The same authority to impose civil penalties as the Secretary of HHS now has under sections 1128A of the Social Security Act involving false claims in the Medicare and Medicaid programs would be provided for the SSI program. SSA would have direct authority, after approval by the Department of Justice, to impose civil penalties when an individual or entity has been involved in submitting or causing to be submitted any statement that the individual knows or should know is false or misleading, or knows or should know omits a material fact. Each offense involving the SSI program would be subject to a penalty of not more than \$5,000 and an assessment, in lieu of damages, of not more than twice the amount of benefits paid as a result of such statement or representation. In addition, medical providers or physicians who commit such offenses with respect to the SSI program could be subject to exclusion from participation in the Medicare and Medicaid programs. The process would be similar to that used under section 1128A with respect to false claims in the Medicare and Medicaid programs. SSA would initiate and investigate cases, refer proposed actions to the Department of Justice for review before proceeding, and adjudicate and impose penalties, assessments, or exclusions. As with section 1128A, any person adversely affected by a determination could obtain a review of such determination in the United States Court of Appeals.

Effective date.—October 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical changes, and is expanded to apply to fraud under the OASDI programs.

Effective date.—October 1, 1994.

*c. SSI Fraud Considered a Felony**Present law*

SSI fraud is punishable by a fine of no more than \$1,000 or a prison term of no more than one year, a misdemeanor.

House bill

SSI fraud would be punishable by a fine as determined under the general criminal fine statutes, by a prison term of not more than five years, or both. This provision conforms the specific crime of SSI fraud to the criminal sanctions currently available for Social Security Disability Insurance fraud.

Effective date.—October 1, 1994.

Senate amendment

Same as House bill.

In addition, title II is amended to provide that any person or other entity who is convicted of a violation involving the provision of false statements or representations, if the violation is committed

in the role as, or application to become, a representative payee on behalf of another individual, shall be guilty of a felony and be subject to the same penalties as apply to SSI. In any case in which a court determines that a violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of funds be made to the individual for whom such person or entity was the representative payee.

An individual or entity convicted of a felony under the representative payee requirements of title XVI may not be certified as a payee under title II.

In the case of the second or subsequent imposition of an administrative or criminal penalty on any person or other entity under section 208 or section 1632 of the Social Security Act (relating to fraud), the Secretary may exclude such person or entity from participation in any program under title II, V, XVI, XVIII, XIX, and XX of the Social Security Act, and any other Federal program as provided by law.

Conference agreement

The conference agreement follows the House bill with an amendment prohibiting persons convicted of SSI fraud from serving as representative payees under title XVI.

Effective date.—The amendments apply to conduct occurring on or after October 1, 1994.

d. Authority to Redetermine Eligibility in Disability Cases if Fraud is Involved And to Terminate Benefits If There is Insufficient Reliable Evidence of Disability

Present law

SSA is only permitted to terminate SSI benefits under well-defined conditions, unless the benefits were obtained fraudulently. The statute provides no guidance on the use of this authority.

House bill

An individual's eligibility for SSI disability benefits shall be immediately redetermined, disregarding any unreliable evidence of disability, if there is reason to believe that fraud was involved in the application for benefits, unless a U.S. Attorney or equivalent State prosecutor certifies, in writing, that to do so would create a substantial risk of jeopardizing any current or anticipated criminal proceeding.

Effective date.—October 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical amendments and is also expanded to apply to fraud in the OASDI programs.

Effective date.—October 1, 1994.

*e. Availability of Recipient Identifying Information From the
Inspector General, Social Security Administration*

Present law

There is no current statutory requirement for the OIG to provide SSI recipient identifying information obtained during a criminal investigation to SSA for administrative action. Such identifying information is transmitted to SSA at such time as the OIG believes it appropriate and often not until the conclusion of a criminal investigation or a Federal or State criminal prosecutorial process. Consequently, SSI benefits continue to be paid during an active investigation or prosecution based on those benefits having been obtained through fraud.

House bill

The SSA Inspector General would be required to disclose to SSA recipient identifying information as soon as he has reason to believe that any individual, or group of individuals, have secured SSI benefits in a fraudulent manner. This requirement would not apply if a U.S. Attorney or State prosecutor who has jurisdiction to file a criminal action against any of the parties involved certifies that disclosure of SSI recipient information by the IG would jeopardize the criminal prosecution of the individual who is the subject of the investigation.

Effective date.—October 1, 1994

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical amendments and is also expanded to apply to fraud under the OASDI programs.

Effective date.—October 1, 1994.

*f. Authority To Use Available Pre-admission Immigrant and
Refugee Medical Information*

Present law

No provision.

House bill

SSA would be required to request medical information from the Immigration and Naturalization Service or the Centers for Disease Control which they may have with respect to any alien who has applied for SSI benefits to the extent the information is relevant to determining eligibility.

Effective date.—October 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with technical amendments.

Effective date.—October 1, 1994.

*g. Annual Reports on Reviews of SSI Cases**Present law*

No provision.

House bill

SSA would be required to annually report to the Committee on Ways and Means and the Committee on Finance on the extent to which it has exercised its authority to review SSI cases and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

Effective date.—October 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill and is also expanded to apply to fraud under the OASDI programs.

Effective date.—Upon enactment.

*h. Effective Date**Present law*

No provision.

House bill

In general these provisions would take effect on October 1, 1994. The provisions dealing with civil monetary penalties in SSI cases involving fraud, with the treatment of SSI fraud as a felony, and with annual reports of reviews of SSI cases would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

In general, these provisions would take effect on October 1, 1994. The provision dealing with the annual reports of reviews of SSI and OASDI cases would be effective upon enactment.

33. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18
YEARS OF AGE

(Sec. 232 of the House bill and sec. 207 of the conference agreement)

Present law

Under current law, all disabled Social Security beneficiaries are required to undergo periodic reviews to determine whether they

continue to be disabled. There is no comparable provision in the SSI program.

A needy child under the age of 18 years old who has an impairment of comparable severity with that of an adult may be considered, disabled and eligible for SSI benefits. To be found disabled, a child must have a medically determinable impairment that substantially reduces his or her ability to independently, appropriately, and effectively engage in age-appropriate activities. This impairment must be expected to result in death or to last for a continuous period of at least 12 months.

Under the adult disability determination process, individuals whose impairments do not "meet or equal" the listings of impairments in regulations are subjected to an assessment of residual functional capacity. SSA determines whether adults are able to do their past work or whether they are able to do any substantial gainful work. If they cannot do either one, they are disabled.

Under the disability determination process for children, individuals whose impairments do not "meet or equal" the listings of impairments in regulations are subjected to an individualized functional assessment. This assessment examines whether the children can engage in age-appropriate activities effectively. If it is found that the children's impairments are on comparable severity to an adult's without assessing past work or ability to do substantial gainful work, the children are disabled.

House bill

SSA would be required to re-evaluate under adult disability criteria the eligibility of children receiving SSI after they reach 18 years old and before they are 19 years old.

Effective date.—Applies to recipients attaining the age of 18 years old in or after the ninth month following the month of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment requiring SSA to conduct CDRs for a minimum of one-third of the children reaching age 18 in each of fiscal years 1996, 1997, and 1998. SSA will be required to report to Congress no later than October 1, 1998 on the activities conducted under this requirement.

Effective date.—October 1, 1995.

34. CONTINUING DISABILITY REVIEWS

(Sec. 233 of the House bill and sec. 208 of the conference agreement)

Present law

Title II of the Social Security Act requires the Secretary of Health and Human Services to conduct periodic continuing disability reviews (CDRs) of disabled beneficiaries. For those beneficiaries whose impairments are not permanent, CDRs must generally be

performed every three years. Beneficiaries with permanent disabilities receive CDRs at such times as the Secretary determines appropriate.

CDRs are funded as part of the Social Security Administration's administrative budget, which is subject to annual appropriations.

House bill

The provision would require the Secretary to conduct periodic continuing disability reviews on SSI recipients in the same manner as such reviews are currently required for DI beneficiaries.

Effective date.—October 1, 1995.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment requiring SSA to conduct CDRs for a minimum of 100,000 SSI recipients per year for 3 years. SSA will be required to report to Congress no later than October 1, 1998.

Effective date.—October 1, 1995.

35. TECHNICAL AND CLERICAL AMENDMENTS

(Sec. 234 of the House bill and sec. 321 of the conference agreement)

Present law

Title II of the Social Security contains a number of typographical errors, erroneous references, circular cross references, inconsistent margination, incorrect punctuation, and references to outdated versions of the Internal Revenue Code. In addition, present law includes certain inconsistent statutory provisions.

House bill

Technical changes would be made to correct inconsistencies in provisions relating to fees for claimant representatives, rounding procedures for indexing certain program amounts, and deemed average total wages, among others. These corrections would not change the meaning of any section of the Social Security Act.

Effective date.—In general, the provision would be effective upon enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with an amendment to the attorney fee provision.

Effective date.—In general, the provision would be effective upon enactment.

36. EXEMPTION FROM ADJUSTMENT IN PASS-ALONG REQUIREMENTS

(Sec. 209 of the conference agreement)

Present law

Section 1618 of the Social Security Act requires that States making supplementary payments to Supplemental Security Income recipients "pass along" cost-of-living increases in the Federal benefit. There are two options for the States in meeting the "pass along" requirement: (1) the aggregate spending level option, under which States may make supplementary payments in the current 12-month period that are no less, in the aggregate, than were made in the previous 12-month period; or (2) the individual payment level option, under which a State may maintain the supplementary payment levels that were in effect for categories of individual recipients in March 1983.

House bill

No provision.

Senate amendment.

No provision.

Conference agreement

For the purpose of determining under the "aggregate spending level option," whether a State's expenditures for supplementary payments during a 12-month period are not less than its expenditures for such payments in the preceding 12-month period, retroactive SSI payments made to children qualifying under the *Zebley* court decision may, pursuant to a State's one-time option, be excluded from the computation of the State's expenditures.

Effective date.—The provision would be effective with respect to increases in the level of SSI benefits whether occurring upon, before, and after the date of enactment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 4, 1994.

Hon. SAM GIBBONS,
Acting Chairman, Committee on Ways and Means, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) has prepared the enclosed cost estimate for the conference agreement on H.R. 4277, the Social Security Administrative Reform Act of 1994. The act would establish the Social Security Administration as an independent agency and make reforms to the payment of Social Security Disability Insurance and Supplemental Security Income to persons disabled as a result of drug addiction or alcoholism.

Enactment of H.R. 4277 would affect direct spending and receipts and thus would be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

This estimate was prepared based on draft legislative language and is subject to change pending receipt of final legislation. If you

wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Paul Cullinan and Patrick Purcell, who can be reached at 226-2820.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

Enclosure.

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF CONFERENCE AGREEMENT ON H.R. 4277
 (By fiscal years, in millions of dollars)

	1995	1996	1997	1998	1999	Total
TITLE I—ESTABLISH SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY						
Subject to Appropriation ¹	(?)	1	1	1	1	3
TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI						
201. Restrictions on Benefits Based on Disability of Substance Abusers:						
3 Direct Spending:						
OASDI	-73	-35	-16	-33	-85	-242
SSI	-13	-9	-11	-266	-299	-598
Medicare	0	-1	-2	-3	-4	-10
Medicaid	0	-2	-3	-4	-4	-13
Offsets	1	1	1	26	30	60
Subtotal	-85	-46	-31	-280	-362	-803
Administrative Costs Subject to Appropriation ¹						
OASDI	35	51	71	39	37	233
SSI	(?)	(?)	(?)	20	20	40
Administrative Costs Subject to Appropriation ³						
OASDI	11	45	91	115	129	391
202. Commission on Childhood Disability Subject to Appropriation	1	1	(?)	0	0	2
203. Regulations Regarding Completion of PASS Direct Spending	(?)	(?)	(?)	(?)	(?)	(?)
204. SSI Eligibility for Students Temporarily Abroad Direct Spending	(?)	(?)	(?)	(?)	(?)	(?)
205. Disregard of Cost-of-living Increases for Continued Eligibility for Work Incentives Direct Spending	(?)	(?)	(?)	(?)	(?)	(?)
206. Detection and Prevention of Fraud Direct Spending	(?)	(?)	(?)	(?)	(?)	(?)
207. Disability Review for Children Reaching 18 Years Old:						
SSI	0	-3	-7	-15	-15	-40
Medicaid	0	-1	-5	-10	-10	-26
Offsets	0	0	1	1	2	4
Subtotal	0	-4	-11	-24	-23	-62
Administrative Costs Subject to Appropriation						
0	0	8	10	10	3	31
208. Continuing Disability Reviews for SSI Recipients Direct Spending:						
SSI	0	-7	-20	-35	-45	-107
Medicaid	0	-5	-15	-30	-40	-90
Offsets	0	1	3	3	5	12
Subtotal	0	-11	-32	-62	-80	-185

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF CONFERENCE AGREEMENT ON H.R. 4277—Continued

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	Total
Subject to Appropriation	0	35	40	40	30	145
209. Exemption from Pass-along Requirements Direct Spending	0	0	0	0	0	0
TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS						
301. Issuance of Physical Documents in the Form of Bonds, Notes, or Certificates to Social Security Trust Funds:						
Subject to Appropriation ¹	0	0	0	0	0	0
302. GAO Study Regarding Telephone Access:						
Subject to Appropriation ¹	0	0	0	0	0	0
303. Expand FICA Exemption for Election Workers:						
OASDI Revenue	-7	-15	-15	-15	-15	-66
HI Revenue ⁴	-2	-3	-3	-3	-3	-15
Subtotal	-9	-18	-18	-18	-18	-81
Income Tax Offset	1	2	2	2	2	8
Total Net Revenue	-8	-16	-16	-16	-16	-73
304. Use of Social Security Numbers for Juries:						
Subject to Appropriation ¹	0	0	0	0	0	0
305. Coverage for Police and Firefighters:						
OASDI Revenue	0	0	(2)	(2)	(2)	(2)
HI Revenue ⁴	0	0	(2)	(2)	(2)	(2)
Total Net Revenue	0	0	(2)	(2)	(2)	(2)
306. Exemption for Certain Ministers:						
OASDI Revenue	(2)	(2)	(2)	(2)	(2)	(2)
HI Revenue ⁴	(2)	(2)	(2)	(2)	(2)	(2)
Total Net Revenue	(2)	(2)	(2)	(2)	(2)	(2)
307. Totalization Benefits and the Windfall Elim. Provision Direct Spending	(2)	1	1	1	1	4
308. Exclusion of Military Reservists from Application of the Government Pension Offset and Windfall Provisions:						
Direct Spending	(2)	(2)	(2)	(2)	(2)	(2)
309. Repeal Facility-of-Payment Provision:						
Direct Spending	0	0	0	0	0	0
Subject to Appropriation ¹	0	-3	-3	-3	-3	-12
310. Simplify Computation of Maximum Family Benefits When Subsequent Entitlement Guarantee Applies to PIA:						
Direct Spending	(2)	(2)	(2)	(2)	(2)	(2)

311. Use of SSA Information for Epidemiological Research:						
Subject to Appropriation ¹	0	0	0	0	0	0
312. Prohibition on Misuse of Social Security Names, Symbols, etc.:						
Subject to Appropriation ¹	0	0	0	0	0	0
313. Unauthorized Disclosure of Social Security Information:						
Direct Spending	(?)	(?)	(?)	(?)	(?)	(?)
Subject to Appropriation ¹	(?)	(?)	(?)	(?)	(?)	(?)
314. Time Extension for Annual Earnings Report:						
Direct Spending	0	0	0	0	0	0
Subject to Appropriation ¹	0	0	0	0	0	0
315. Extend DI Demonstration Authority Direct Spending	0	0	0	0	0	0
316. Cross-Matching Social Security Account Number Information With Dept. of Agriculture Subject to Appropriation ¹	0	0	0	0	0	0
317. Certain Transfers to the Railroad Retirement Account Made Permanent:						
Direct Spending	0	0	0	0	0	0
318. Authorization for use of Social Security Numbers by the Dept. of Labor for Administration of Federal Workers' Compensation:						
Direct Spending	0	0	0	0	0	0
Subject to Appropriation ¹	0	0	0	0	0	0
319. Retirement Eligibility for Federal Employees Transferred to International Organizations:						
Off-Budget Revenue	(?)	(?)	(?)	(?)	(?)	1
On-Budget Revenue	(?)	(?)	(?)	(?)	(?)	(?)
Total Net Revenue	(?)	(?)	(?)	(?)	(?)	1
Subject to Appropriation ¹	1	1	1	1	1	5
320. Extend FICA exemption to individuals who enter U.S. Under a Visa Issued under Section 101 of the Immigration and Naturalization Act ⁵ :						
Off-Budget Revenue	-4	-5	-6	-6	-6	-27
On-Budget Revenue ⁴	-1	-1	-1	-1	-1	-5
Total Net Revenue	-5	-6	-7	-7	-7	-32
321. Technical and Clerical Amendments Subject to Appropriation ¹	0	0	0	0	0	0
TOTALS						
Revenues:						
On-Budget ⁴	-2	-2	-2	-2	-2	-12
Off-Budget	-11	-20	-21	-21	-21	-92
Total Net	-13	-22	-23	-23	-23	-104
Direct Spending Totals:						
On-Budget	-12	-25	-58	-332	-381	-796
Off-Budget	-62	11	76	83	45	153

TABLE 1.—DETAILS OF FEDERAL GOVERNMENT COSTS OF CONFERENCE AGREEMENT ON H.R. 4277—Continued
 [By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999	Total
Total¹	-74	-14	18	-249	-336	-645
Direct Spending Excluding Administrative Costs not subj. to Appropriations:						
On-Budget	-12	-25	-58	-332	-381	-796
Off-Budget	-73	-34	-15	-32	-84	-238
Total	-85	-59	-73	-364	-465	-1036
Deficit Effects—Direct Spending Minus Revenues:						
On-Budget	-10	-23	-56	-330	-379	-786
Off-Budget	-51	31	97	104	66	245
Total	-61	8	41	-226	-313	-541
Deficit Effects—Direct Spending Exc. Administrative Costs Not Subj. to Appropriations Minus Revenues:						
On-Budget ⁴	-10	-23	-56	-330	-379	-786
Off-Budget	-62	-14	6	-11	-63	-146
Total	-72	-37	-50	-341	-442	-932
Outlays Subject to Appropriation:						
On-Budget ¹	37	94	120	106	89	447
Off-Budget	0	0	0	0	0	0
Total Net	37	94	120	106	89	447

¹ Under the FY 1995 Budget Resolution, administrative expenses of the OASDI program are considered on-budget because they fall under the discretionary spending limits.

² Indicates less than \$500,000.

³ Administrative costs would not have effects that must be considered for the purposes of the Budget Enforcement Act.

⁴ Effects on Hospital Insurance revenues are included as on-budget to be consistent with the Budget Resolution for FY 1995.

⁵ Preliminary estimate provided by the Joint Committee on Taxation.

Source: Congressional Budget Office, based on draft legislative language.

Note: Details may not add to totals due to rounding.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998
Receipts	-2	-2	-2	-2
Outlays	-12	-25	-58	-332

The on-budget outlay changes in SSI, Medicare, Medicaid, Food Stamps, and AFDC would be included on the pay-as-you-go scoreboard. Social Security spending is exempt from the pay-as-you-go rules.

SAM GIBBONS,
 DAN ROSTENKOWSKI,
 J.J. PICKLE,
 ANDREW JACOBS, Jr.,
 HAROLD FORD,
 BILL ARCHER,
 JIM BUNNING,
 RICK SANTORUM,

Managers on the Part of the House.

DANIEL P. MOYNIHAN,
 MAX BAUCUS,
 JOHN BREAUX,
 BOB PACKWOOD,
 BOB DOLE,

Managers on the Part of the Senate.



Administration an independent agency. While this bill contains many important provisions, I want to address my remarks to particular reforms in the bill that will go far in correcting a major misuse of taxpayer and Social Security trust fund dollars.

I also, however, want to point out a provision in the conference report which was not included in the Senate-passed bill and which, I believe, may result in unfair consequences for some individuals who sorely need help from the disability program.

From time to time, astounding examples of absurd Federal spending policies come to light and stop us in our tracks. The findings earlier this year of an investigation by my staff on the Senate Special Committee on Aging and the GAO that drug addicts and alcoholics are being given cash disability benefits that are in turn perpetuating their addictions is just such an outrageous example of how a well-intentioned Federal program has been manipulated extensively, resulting in the misuse of millions of taxpayer dollars.

While Congress' original purpose in giving disability benefits to drug addicts and alcoholics was to encourage treatment, this goal has been turned on its head; instead of promoting treatment, the disability programs are feeding their addictions. In fact, the Social Security Administration has been criticized as being one of the easiest sources of cash for drugs and alcohol in the United States.

It is clear that Congress' original goal of rehabilitating drug addicts and alcoholics has failed and that the Social Security Administration has instead become the enabler of hundreds of thousands of drug addicts and alcoholics by providing them with unsupervised cash that they can use to buy more drugs and drink.

There are now over 250,000 addicts and alcoholics on the disability rolls, but only 78,000—or less than a third—are required to receive treatment or have a third party manage their benefits for them. The other 172,000 addicts and alcoholics on the rolls are not required by SSA to receive treatment, and receive cash benefits, which are often used to buy them more drugs or alcohol.

The taxpayer is left paying the tab of over \$1 billion a year for the 172,000 drug addicts and alcoholics who are not required to seek treatment. In addition, since most of these individuals are never reviewed by the agency to determine if they are still eligible for benefits—many of these addicts are on the disability program for life.

In addition, we found that up until this year the SSA had established agencies to refer addicts to treatment and monitor their compliance in only 18 States—leaving 26 States without any approved agency to oversee the substance abusers. For example, Maine has never had a treatment referral agency in the entire history of the SSI

SOCIAL SECURITY ADMINISTRATION
INDEPENDENT AGENCY
BILL

Mr. COHEN. Mr. President, I am pleased that the Senate is considering today the conference report on H.R. 4277, a bill making the Social Security

program and recently had its proposal turned down with no explanation.

Some clever addicts find ways to game the system even when the Social Security Administration appoints a person to manage benefits on behalf of the drug addict or alcoholic. In some cases, the local bartender was selected as a responsible third party for addicts and alcoholics to manage their monthly benefits. In most cases, a family member or friend is chosen and is inevitably pressured or threatened to give the money directly to the substance abuser.

Even more alarming is the fact that, in many cases, due to the length of time it takes to process a claim, addicts and alcoholics are eligible for cash lump sum retroactive payments that can total up to \$25,000. It is no surprise that these taxpayer dollars are often drunk away or shot into the arms of drug users.

Perhaps the most outrageous finding of our investigation was that even when drug addicts directly admit to the Social Security Administration that they are actively engaged in criminal activity, such as drug dealing and stealing, to support their addiction they are still awarded benefits. The effect of this policy is that one hand of our Federal Government is trying to crack down on crime and illegal drug use, while the other hand is supplying drugs to the dealers and addicts who commit the crimes. Fighting the war on crime is hard enough without buying supplies for the other side.

The conference report we are passing today addresses many of the major flaws we uncovered in the disability program. Most importantly, it will get cash out of the hands of many addicts and alcoholics for whom the disability check has become their main source of drugs and alcohol.

This bill will also ensure that drug addicts and alcoholics on both the SSI and Social Security disability insurance rolls receive treatment for their substance abuse as a condition of receiving benefits, and requires that SSA monitor the treatment of these persons to be sure they are complying with the law.

There are, however, concerns that I have with the final version of this legislation. The conference report adopted a House provision which limits SSI benefits to drug addicts and alcoholics to 3 years of benefits, regardless of whether they have begun to receive treatment or not. I have concerns that this provision does not adequately take into account the long waiting lists for treatment that exist in some areas of the country. Since the goal of this limitation on benefits should be an incentive to rehabilitate and then successfully remove substance abusers from the disability rolls, starting the clock on the 3 years of benefits when treatment is not even available does not reflect this goal.

In my bill, I would have treated the disability insurance recipients and the

SSI recipients the same by not counting the 36-month time limit until treatment was available. In other words, what I did in our legislation was to say that those individuals who are, addicted to drugs or to alcohol, must seek treatment and treatment must be available. And until that treatment is available, the 36-month period would not run.

At this particular time I doubt very much whether there is any sentiment on the part of either the House or Senate to change this provision. But I must say it is flawed in my opinion. To say to an individual that you must seek treatment and we will start counting the time in which you are allowed to receive these benefits but if treatment is not available, it is your tough luck, I think that is an unfair provision. I hope to amend that as we consider more legislation, if not this year then certainly next year. I hope to amend that particular provision to make sure that those individuals who qualify for these benefits will in fact be able to receive the treatment or not be taken off the program.

I also would have preferred that the requirements for representative payees and treatment be required for all drug addicts and alcoholics on the disability rolls, in order to tighten the controls even further on these programs.

Despite these two concerns, I believe that this legislation is a major step toward restoring the public's confidence and integrity in our Nation's disability programs.

Mr. President, I want to thank Senator MOYNIHAN, Senator PACKWOOD, and Senator DOLE and their staffs for their strong support and assistance in passing these reforms. I would particularly like to recognize Kathy Tobin and Margaret Malone of the Senate Finance Committee staff, Alexander Vachon of Senator DOLE's staff, and Marty Sieg-Ross and Sally Satel of the Labor Committee for their assistance with this legislation.

—————

SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I submit a report of the committee of conference on H.R. 4277 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4277), a bill to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

(The conference report is printed in the House proceedings of the RECORD of August 4, 1994.)

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on H.R. 4277, a bill to establish the Social Security Administration as an independent agency; that the conference report be agreed to, the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

PRIVILEGE OF THE FLOOR

Mr. MOYNIHAN. Mr. President, I also ask unanimous consent, and the courtesy of the Senate, to allow Mr. Webster Phillips, who is an employee of the Social Security Administration, to be granted privilege of the floor. He has worked heroically in this matter for the longest while, and it would be a personal favor if this might be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, today the Senate completes action on legislation of historic importance which removes the Social Security Administration from the Department of Health and Human Services and rees-

tablishes it as an independent agency in the executive branch of the Government.

We do so serendipitously on a date that falls within 4 days of the date—August 9, 1935—when the Senate voted by voice vote to pass the conference report on the original Social Security Act.

With the conference report before us today, we increase the stature of the Social Security Administration, strengthen its leadership and establish a bipartisan advisory board. These measures will strengthen the administration of Social Security and we confidently believe increase public confidence in the program.

The conference report also includes provisions proposed by Senator COHEN and Senator DOLE that require the Social Security Administration to establish procedures for more responsible payment of benefits to disabled drug addicts and alcoholics. Beginning 6 months after enactment, Social Security will be required to pay these disability benefits to a representative payee rather than directly to the individual involved.

Making the Social Security Administration an independent agency is not a new notion. It began as such in 1935, only gradually to be folded into a succession of Government agencies and, in the end, losing its identity almost entirely within the Federal Government.

In 1980, the National Commission on Social Security, which was appointed by President Carter, and in 1983, the National Commission on Social Security Reform which was appointed by President Reagan and the Congress recommended that the Social Security Administration should be established as an independent agency.

Congress, with Senator DOLE very much involved, and the Senator from New York, in 1983 commissioned a study for the best form of governance for an independent Social Security Administration.

In 1984, the following year, this panel, which was headed by the distinguished former Comptroller General of the United States, Elmer Staats, recommended that an independent Social Security Administration be led by a single executive who would be advised by a bipartisan advisory board. The conference report before us follows those recommendations.

It has taken us a decade, Mr. President, and the reasons are clear enough. In 1977, the Social Security amendments of that year put the trust funds on a partially funded basis such that an enormous surplus would be built up, anticipating the retirement of the persons born in the decades after World War II.

To give you a sense of the magnitude involved, the surplus would buy the New York Stock Exchange, a fact which the Office of Management and Budget did not fail to notice. It began in effect using Social Security trust fund surpluses as general revenue. The

specifics are that they can only be used to purchase Federal Government bonds, special bonds which cannot ever fall below the par value. But in reality had we gone to a balanced budget situation, a balanced operating budget in the 1980's, this surplus would have been used to buy down the privately held debt of the United States, and the consequences would have been an increase in private investment. We could have doubled the rate of savings in the 1980's had we done what was possible but which was not done.

Further, the ability of the Social Security Administration to carry out its functions was severely limited by budget constraints—cuts in staffing levels, cuts in the basic services.

There is a fine editorial which appeared just recently in the Rochester Times-Union on this subject, on customer service at Social Security. It reads, if I may:

Did you ever try to get a call through to the SSA? Or get a new card? Or find out how much you have paid into the system? Or get an estimate of your retirement benefits? This is pretty basic stuff, but it's easy for an organization out of the public line of fire to forget even the basics.

It goes on to note that our current Commissioner, our very able Commissioner, Shirley Chater, is the 12th Commissioner of Social Security in the last 17 years. There has been no continuity. There has been no executive energy. And the results have shown a startling decline in public confidence.

We have reached the point, Mr. President, where the Employee Benefit Research Institute, which does regular Gallup Polls on this matter, in February found only 30 percent of respondents had confidence that Social Security would be available through their retirement years.

If I can make just a small anecdote on this point, it would be about 2 months ago that Senator PACKWOOD and I were on the floor proposing the bill that passed unanimously from the Committee on Finance, and I was making a point that Social Security was in surplus, the benefits would be there in half a century; it had never been a day late or a dollar short, and it would continue so.

I noticed something, something that had never happened before to me on the Senate floor. I noticed that the very able young persons who work the desks in front of you, Mr. President, and the tables here in front of us, were listening. Now, normally they do not listen. They have better, other things and more pressing things to do. They are going about the business of the Senate, putting things together, looking up references, making arrangements, and so forth. I found them listening to what I was saying.

A quorum call was introduced, and I took the liberty of going up and saying, "Now, you were listening." They said, "Yes." I said, "Would I be wrong in thinking that this is the first time

you have ever heard anyone say that Social Security would be available to you when you reached retirement age?" And they said, "Yes." I took an informal poll of nine persons here at the front desk, seven of whom agreed that Social Security would not be there when their time came.

Well, Mr. President, this legislation today makes it very much clearer that it will be. I hope we will see in very short order the introduction of an annual statement sent to every Social Security contributor of what his or her contributions that year had been, what survivors' benefits would be, where they stood in the earning of 40 quarters of coverage which vests Social Security in the individual, and what their ultimate retirement benefits would likely be at age 65.

All these things are easily done. In the sending out of such a statement, the largest cost involved is the postage stamp. But the cost of not doing so, which we have not done, is a near complete loss of confidence in younger people that the system is working. If young people think the Government is misleading them in something as elemental as Social Security, what else do they think they are misled about?

I recently received a letter from Robert M. Ball, one of the great authorities on this subject, a Social Security Commissioner, after a lifetime in the system, who spoke of the statements as "individual reports to each stockholder."

It is long past time this was done, long past time we had a proper Social Security card in plastic with a hologram and not the paper pasteboard product of the 1930's, which said rather assertively at the bottom "Not To Be Used For Identification." It is now issued to children at birth.

Yet, when we got the law passed to say that there would be a tamper-proof card, the Social Security Administration in the 1980's took about 2 years to carry out the statute. And one day I got in the mail an announcement that there was the new tamper-proof card, the exact same card we always had, with this difference—there were invisible fibers implanted in the paper so that a counterfeit card would be instantly recognizable under a microscope in an FBI laboratory.

Well, that was not the purpose of having a tamper-proof card. It was for the purpose of having something to show so you would know who they were; you would know they were part of the work force, and legally in the country, and citizens who had responsibilities and were carrying them out.

That sort of mismanagement got to the point of genuine abuse. In the mid-1980's, the present mayor of New York City, Mr. Rudolph Giuliani, who was then the U.S. attorney for the Southern District of New York, refused to defend the U.S. Government in disability benefit cases. He thought the management in the Social Security Administration was so bad because the Govern-

ment was turning people out, turning people down, rescinding benefits, denying benefits. Appeals were made, benefits were restored or conferred, and the Government asked to go to court to contest. A U.S. attorney said, no, it is insufferable. And indeed it was.

So, Mr. President, today we write the final chapter in the effort to reestablish an independent Social Security Administration.

I ask that my colleagues join me in supporting this historic measure.

I ask unanimous consent that the editorial from the Rochester Times-Union be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Times-Union, July 26, 1994]

CUSTOMER SERVICE AT SOCIAL SECURITY

Any day now, President Clinton is expected to sign legislation to make the Social Security Administration an independent agency, separate from the Department of Health and Human Services.

Don't yawn. This apparently innocuous change, spearheaded by New York Sen. Daniel Patrick Moynihan, offers the best opportunity for improving service, which is the key to restoring confidence in the retirement system.

Just 39 percent of non-retired adults feel "very confident" or "somewhat confident" that they will collect benefits when they retire.

Cutting Social Security loose doesn't guarantee improvements, but it should raise the public profile of the agency and the director (Quick, who heads this \$300 billion a year program?) who operate in obscurity, blissfully ignorant of even the most elementary principles of customer service.

CHECKING YOUR CONTRIBUTIONS

Eventually, the Social Security Administration should send every taxpayer an annual statement of contributions to date and an estimate of expected benefits at retirement age. That's not common practice now, but you can get a statement on request by calling 1-800-772-1213.

Did you ever try to get a call through to the SSA? Or get a new card? Or find out how much you've paid in to the system? Or get an estimate of your retirement benefits?

This is pretty basic stuff, but it's easy for an organization out of the public line of fire to forget even the basics.

The current Social Security commissioner, Shirley S. Chater, is the 12th in 17 years. You've probably never heard of her, although she presides over a budget larger than the defense budget.

If she and her successors are more visible—are actually interviewed on TV once in a while, or go before Congress—they should be more sensitive to you and your needs.

"You will get a decent Social Security card," Moynihan says. "You will get an annual statement of your contributions and expected benefits. When you call the local Social Security office, they will answer your call. And you will know someone is looking after your money."

Maybe, he's too optimistic. But not many Baby Boomers expect to get regular checks when they retire—despite the fact that Social Security payroll taxes were hiked a decade ago for the purpose of generating the huge surpluses (more than \$70 billion this year alone) that would guarantee those benefits.

The money's going to be there. If the Social Security people begin to treat taxpayers

as customers, the confidence will be there, too.

Mr. MOYNIHAN. Mr. President, with that, I conclude by noting that the majority leader would like to speak on this, which is a matter of great concern to him. Accordingly, sir, I conclude my remarks and suggest the absence of a quorum so that the majority leader might come to the floor.

I once again would like to thank Eduard Lopez for his incomparable advice for 10 years on such an enterprise, and Margaret Malone of the Finance Committee staff, and Webster Phillips of the Social Security Administration.

So, Mr. President, I suggest the absence of a quorum. I thank the Senate for its consideration.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, today is a historic day in the history of the Social Security system. I believe that it should not go without notice or Comment.

Social Security is one of the broadest, most effective, and most widely supported of programs in our Nation's history. It has succeeded in large part because in the nearly 60 years of its history it has had champions in the Congress and in various administrations, men and women who have devoted much of their careers to gaining knowledge of the system and how it works, who have continually striven to improve and expand the system, and to enable it to better serve the American people.

Every Member of this Congress knows, and I hope that every American who is involved with the Social Security system knows, that the person most responsible for the legislation just enacted and the more than champion of the Social Security system, the man most responsible for educating other Members of Congress about the importance of the system, is the distinguished senior Senator from New York and the chairman of the Senate Finance Committee, Senator MOYNIHAN.

Senator MOYNIHAN has devoted countless hours to informing other Members of the Senate about the manner in which the system operates, about its importance in our society, and about how it can be improved. The legislation just enacted by the Senate is but the latest result of his efforts in that regard.

Senator MOYNIHAN will receive many words and much praise and tribute on this matter, all well deserved. But I think perhaps the greatest tribute he can receive is the fact that all across this country there are millions of Americans who will not say words of

tribute because they do not know of his work, and perhaps do not even know of him, but who as a result of his efforts will lead better, longer, more full and meaningful lives. And I think in the end that is the greatest tribute that can be paid.

So, Mr. President, in behalf of all my colleagues, I thank the distinguished chairman for his efforts and hope that when the history of Social Security is written, those who write it will pay proper recognition and tribute to the man who has done more than any other to make it succeed and make it better, our friend and colleague, Senator MOYNIHAN.

Mr. MOYNIHAN. Mr. President, with deepest gratitude, I am not fully confident that I ought to speak any more. The majority leader's words were so generous, and they mean very much to this Senator. I am deeply thankful.

CONFERENCE REPORT ON H.R. 4277,
SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1994

Mr. JACOBS. Mr. Speaker, pursuant to the order of the House of Friday, August 5, 1994, I call up the conference report to accompany the bill (H.R. 4277) to establish the Social Security Administration as an independent agency and to make other improvements in the old-age survivors and disability insurance program.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of Thursday, August 4, 1994, at page H6843).

The SPEAKER pro tempore. The gentleman from Indiana [Mr. JACOBS] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. PICKLE].

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

Mr. PICKLE. Mr. Speaker, I thank the gentleman from Indiana [Mr. JACOBS] for yielding this time to me.

Mr. Speaker, I rise today in support of H.R. 4277, the Social Security Administrative Reform Act of 1994.

Title I of this bill establishes the Social Security Administration as a separate, independent agency. This is a landmark step in the continuing effort to make sure that the Social Security System is properly and impartially administered.

For too long the Social Security Administration has been caught in the middle of political and budgetary disputes. This legislation will go a long way to protecting the agency from the

crossfire of partisan politics. In my judgment, granting SSA independent agency status will promote long-term stability in the Social Security Program. Such stability is essential in this program which provides basic retirement income security for almost every American worker.

I particularly want to commend Chairman JACOBS and Mr. BUNNING for their tenacity in advancing this legislation. The issue of independent agency status for the Social Security Administration has been the subject of many studies, reviews, and House votes over the years. In fact, yesterday marked the 10th anniversary of the day, August 10, 1984, that I, joined by Chairman DAN ROSTENKOWSKI, first introduced legislation to grant SSA independent status. The conference report before us today will finally make real the intent of that first bill which we introduced a decade ago. While it has been a long time coming, it has been worth the wait. And I think that Republicans and Democrats, who have consistently supported this reform over the past decade, and here I want to especially note the unwavering support of Mr. ARCHER, all should take great pride in the ultimate attainment of our goal.

Mr. Speaker, I would also like to call the Members attention two other provisions of the bill which address problems encountered in the SSI disability program.

The first provision deals with the granting of disability benefits in situations involving middlemen who are fraudulently causing millions of dollars in benefits to be paid to people who are feigning mental disorders. Section 206 of the conference report, which was proposed by myself, and Messrs. HAROLD FORD, HOUGHTON, and SANTORUM, will help to prevent this fraud by: insuring accurate translations of interviews conducted by SSA officials; establishing streamlined procedures for terminating fraudulently obtained SSI benefits; and increasing civil and criminal sanctions available to SSA in SSI fraud cases.

The second provision deals with the continued payment of SSI disability benefits to recipients who are no longer disabled. Under current law there is no requirement for SSA to conduct continuing disability reviews for SSI recipients, even in cases where it is anticipated that the medical condition of the beneficiary will improve. The failure to conduct these disability reviews has led to the payment of hundreds of millions of dollars each year to people who are no longer disabled. Section 208 of the conference report, which is the result of a proposal advanced by Mr. HERGER and myself, requires SSA to conduct disability reviews for at least 100,000 SSI recipients per year for the next 3 years, and to report the results of such reviews to Congress no later than October 1, 1998.

Mr. Speaker, I want to conclude by complimenting the leadership of the Committee on Ways and Means for this

very solid piece of legislation. Chairman GIBBONS and subcommittee Chairmen JACOBS and FORD, working closely with Mr. ARCHER, Mr. BUNNING, and Mr. SANTORUM, have crafted a bill which will significantly improve the operations of the Social Security Administration. Its immediate enactment will be a credit to us all, and I urge that all Members vote for these important reforms.

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

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

Mr. ARCHER. Mr. Speaker, I am extremely pleased to be here today, in support of the conference agreement on H.R. 4277, which represents the culmination of congressional action I helped initiate over a decade ago.

The Social Security System has always been extremely important to me. It's one of the very few Government agencies that most Americans have direct contact with and it's likely that many of our constituents measure the way Government performs generally by the way Social Security performs when they need it.

Bringing soundness to the Social Security System has been one of my chief legislative priorities since I was elected to Congress. We owe it not just to our senior citizens, but to our children and the obligations we leave them. That is the reason that I chose to become the ranking Republican on the Social Security Subcommittee when it was first created.

It is also the reason that I sponsored the first House bill creating an independent Social Security Administration with my colleague from Texas [Mr. PICKLE], was then the subcommittee's first chairman. I commend the work of my colleagues, JIM BUNNING and ANDY JACOBS, for carrying through that earlier work. Their efforts have been invaluable.

Mr. Speaker, making Social Security independent will not solve all of its problems, but I believe that freeing it from the layers of bureaucracy imposed on it by HHS will go a long way in making it less political, more responsive, and more accountable. It is also critical to its survival as a vital public service agency which administers the most important social program ever enacted.

The 1983 Social Security Commission, on which I served, recommended a study to make Social Security an independent agency, a recommendation that became part of the 1983 Social Security Amendments. Former Comptroller General Elmer Staats headed up the study panel, which recommended that an independent Social Security Administration be run by a single administrator, backed by a bipartisan advisory board. I am very pleased that the conference approved the form of administrative leadership specified in the bill introduced by the ranking Republican on the Social Security Subcommittee,

Mr. BUNNING. His bill provided the same form of leadership as was endorsed by the experts on the Staats panel.

I believe that the seven-member bipartisan advisory board will plan a critical role making Social Security less political and in improving the public's confidence in the Social Security System.

This board will be independent of the Social Security Administration and Government in general. It will be made up of individuals who share a knowledge of the Social Security System as well as a strong desire to restore it to its former status as a premier public service agency which enjoyed the public's respect and confidence.

One of the most important jobs the Board will have is to increase the public's understanding of the Social Security System. I hope that as a result of the Board's efforts the average citizen will have more confidence in the Social Security System, and will become more aware of the need to plan and save overall.

The bipartisan, nongovernmental advisory board will play a vital role in both protecting the public's interest in Social Security and providing the public truthful information about their stake in the system.

The conference agreement contains other provisions that are important to average Americans, who strongly support Social Security, but want benefits to go to only those who are entitled to them. Thanks to the persistence of two House conferees, the gentleman from Texas [Mr. PICKLE] and the gentleman from Pennsylvania [Mr. SANTORUM], the agreement tightens up on SSI disability benefits by requiring Social Security to review cases to make sure recipients are still disabled.

It also starts to tighten up on payments to drug addicts and alcoholics by putting a 3-year limit on benefits, and by requiring that during that time recipients undergo treatment and be paid only through a responsible third party. These restrictions should provide an incentive for addicts and alcoholics to get their lives back on track. I know that average Americans and health professionals alike object to helping addicts and alcoholics fuel their addictions by giving them cash benefits, and I look forward to working with the subcommittee and committee to take further action on these issues.

Mr. Speaker, I join Chairman GIBBONS, subcommittee Chairman JACOBS, and our Republican leader on Social Security, Mr. BUNNING, in strongly supporting this conference agreement.

□ 1240

Mr. JACOBS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

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

Mr. ROSTENKOWSKI. Mr. Speaker, for more than a decade, the Committee on Ways and Means has been seeking to give the Social Security Administration independence.

Our goal has been to restore the agency's mission of excellence, and protect SSA from short-term political pressures.

I have been a long-time proponent of this legislation. The House has passed the bill four times by overwhelming margins.

Now that the Senate has at last joined us in this effort, we are about to make our goal a reality.

Social Security is our Nation's most successful program. There is no more effective way to signify this program's importance than to give SSA independent status.

H.R. 4277 also includes a provision to restrict disability payments to drug addicts and alcoholics.

It would do this by paying through a responsible third party, requiring beneficiaries to participate in treatment, and applying time limits on benefits.

These are important reforms that would assure that Social Security and SSI benefits are used as intended—to cover the cost of basic necessities such as food, clothing, and shelter.

Mr. Speaker, this is a historic moment for Social Security and the successful end of a decade-long effort by the Committee on Ways and Means.

I commend my colleagues for their hard work, and I look forward to the improvements in service to Social Security beneficiaries that this legislation will bring.

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

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

Mr. BUNNING. Mr. Speaker, I rise enthusiastically in support of H.R. 4277 and urge my colleagues to join me in once again approving this monumental piece of legislation to restore independence to the Social Security Administration.

We owe a special thanks to our Social Security Subcommittee chairman, Mr. JACOBS, who has shown great leadership and dedication in the development of this bill as has our ranking member, Mr. ARCHER, who has been unwavering in his support on this issue for over a decade.

And, of course, the acting chairman of the full committee, Mr. GIBBONS, deserves recognition for shepherding this legislation through conference.

In fact, all the conferees and staff who worked at ironing out the final bill that is now before us were great to work with. The conference was very congenial, totally bipartisan and a real pleasure.

And, most importantly, we have ended up with a good bill. It does a lot of things to improve Social Security.

This bill fixes many parts of the existing law which are broke and needed fixing. It makes disability payments to

substance abusers more accountable. It requires that substance abusers participate in treatment or lose their benefits. It insures that benefits will not be used to support an addiction.

It allows police and firefighters in all the States the option of participating in Social Security. Only 24 States now have this option.

It provides that any borrowing against the Social Security trust fund must be evidenced by physical documents—bonds, notes, or certificates. It's time we got the trust fund IOU's in writing and this bill does that.

This bill increases the Social Security exclusion for election workers to a reasonable level that will not discourage people from working at the polls.

It does a lot of things.

But, of course, the most important point of this bill is to accomplish something that members of this body have been trying to do for years—to restore independence to the Social Security Administration.

In 1935, when Social Security was established, it was freestanding and independent, run by a three member board. Over the years it was expanded to be the Federal Security Agency and then it was folded into the most legendary of all bureaucracies, the Department of Health, Education and Welfare.

Later, Education was spun off and H.E.W. became the Department of Health and Human Services.

Social Security got lost in the process.

This bill takes the Social Security Administration out of the basement of the Department of Health and Human Services where it has been lost in the bureaucratic shuffle.

It emancipates the Social Security Administration from the bonds of politics and insulates it against the gale winds of Presidential posturing, bureaucratic infighting, and budgetary games.

This bill insures that Social Security will no longer be a political football.

This bill provides much-needed stability at SSA by creating the positions of a Commissioner and a Deputy Commissioner to be appointed by the President and confirmed by the Senate, for 6-year terms.

In the past 17 years, 12 Commissioners or Acting Commissioners have come and gone. Social Security has suffered from revolving-door leadership. This bill changes that and provides the kind of stability and a clear-cut line of responsibility any organization the size of SSA needs to be efficiently managed.

To further strengthen oversight and accountability, this bill creates a bipartisan seven-member advisory board to provide advice on Social Security policy. Three members would be appointed by the President; four by the Congress. and, again, to provide continuity and insulate the agency from politics, the members would serve staggered 6-year terms.

I am particularly pleased that the conferees chose to go along with this form of leadership for Social Security that I specified in my bill on the subject—a single administrator backed by a seven-member board.

By granting Social Security its independence and backing it up with this well-balanced management structure, we will provide the stability and the nonpartisan credibility we need to restore the confidence of the American people that Social Security will indeed be there when they need it.

I strongly urge my colleagues to support this measure and give Social Security its independence.

□ 1250

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

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

Mr. Speaker, the Fourth of July has come and gone. It has been two long and eight regular-sized years now, since this effort was begun. Now on this 11th day of August, 1994, A.D., the Liberty Bell can ring for the Social Security System. The House of Representatives, by what it is about to do will take the final action in a 10-year effort. Our action realizes the perseverance and the effort of 10 years to make a declaration of independence for the Social Security System.

Many Members have made special contributions. I begin by naming my friend and my colleague, the gentleman from Kentucky [Mr. BUNNING]. Our relationship as chairman and co-chairman of the Social Security Subcommittee reminds me fondly of those greats of the U.S. Congress, William McCulloch of Ohio and Emanuel Celler of New York, and the splendid fashion in which they worked and brought credit to this institution. So I pay special tribute to the gentleman from Kentucky [Mr. BUNNING] for the cooperation we have been able to find between us.

The gentleman from Texas [Mr. PICKLE] has been through the years a strong advocate, as has the gentleman from Texas [Mr. ARCHER], as has been mentioned. The gentleman from Illinois [Mr. ROSTENKOWSKI] has been also, and the gentleman from Florida [Mr. GIBBONS] has been. In fact there are very few people on the committee who have not been strong advocates for this legislation.

But I think it is especially appropriate to mention that the legislation took 10 years because the White House was opposed and in essence the other body, the Senate, was opposed. So I take this occasion to commend our colleague, Mr. MOYNIHAN of New York, for at long last reversing the refusal of the other body. Similarly, we have had three Presidents while this effort was under way, and President Clinton has endorsed the plan at long last, reversing White House opposition.

Mr. Speaker, one hears it said that the funds of the Social Security system

are being purloined and used for the general government. With the exception of two occasions in the 1980's, this absolutely is not true. The Social Security System since its inception has been required to invest its surpluses in the most conservative, the safest securities available, and any financial adviser worth his or her salt will tell us that is U.S. securities. My wife and I have our life savings essentially in U.S. bonds.

If you put \$1,000 in the bank and some fool comes along and borrows that \$1,000 from the bank to squander on something, still as far as the bank and as far as you are concerned, the question is, Can and will that individual pay that money back and pay the interest on it? In the case of the Social Security trust fund, no doubt some of the funds borrowed, as is the case with funds borrowed from other sources by the U.S. Government, are wasted. Yet as far as the Social Security trust fund itself is concerned, it has just as legal a claim on the U.S. Treasury for the interest and repayment of the loans of the surplus as any individual who holds U.S. bonds in this country. Yet it continues to be thundered across areas of this country that the money is being taken from the Social Security System without the inconvenience of borrowing and paying interest.

I keep thinking about the story FDR told once about Uncle Jed and Ezra.

Ezra said, "Uncle Jed, aren't you getting a little hard of hearing?"

And Uncle Jed said, "Yes, I'm afeared I'm getting a mite deaf." Whereupon Jed went down to Boston to see an ear doctor, and he came back and said, "That doctor asked me if I had been drinking any, and I said, 'Yes, I drink a mite.' He said, 'Jed, I might as well tell you now that either you cut out the drinking or you're going to lose your hearing altogether.'"

"Well," said Uncle Jed, "I thought it over and I said, 'Doc, I like what I've been drinking so much better than what I've been ahearin' that I reckon I'll just keep on getting deaf.'"

So the assertion that you hear time and time again—that this money is being taken from the trust fund and that the Government is not keeping faith with the investors and the taxpayers of this country—is something to which I would advise you to turn a deaf ear.

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

Mr. BUNNING. Mr. Speaker, I yield 1 minutes to the gentleman from New York [Mr. HOUGHTON].

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

Mr. HOUGHTON. Mr. Speaker, I rise in support of the conference report on H.R. 4277.

I will not repeat some of the wonderful things that have been said on a bipartisan basis. I respect the gentleman from Indiana [Mr. JACOBS] and the gentleman from Kentucky [Mr. BUNNING]. I

think that what my leader, the gentleman from Texas [Mr. PICKLE], has done has been absolutely extraordinary.

I would like to focus on one particular feature that I think is important here, and that is a section called section 231. That does not mean much to a lot of people. However, it happens to involve fraud.

One of the things which the Ways and Means Committee was able to detect over the years, after a year-long investigation, was that there had been tremendous fraud perpetrated upon immigrants coming into this country. People would take advantage of them, put them on the SSI rolls, steal money from the Government and the taxpayers, and do this thing illegally. That has been stopped, to the best of my knowledge. We now have better information. We have laws to protect against this thing.

Mr. Speaker, I think this is very important. The reason I mention it is because it is one of the several features that are, I think, important in establishing Social Security as an independent agency. I think the Members very much for accomplishing that.

Mr. BUNNING. Mr. Speaker, I yield 6 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

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

I rise in strong support of the conference report, and I also want to commend the gentleman from Indiana [Mr. JACOBS], the gentleman from Kentucky [Mr. BUNNING], and also the gentleman from Texas [Mr. PICKLE], for the fine work they have done on this legislation.

I think it is important that Social Security become an independent agency, and those arguments have been made. What I want to focus on today is a subject that I was involved with in the conference, and that is the SSI reforms that are in the bill. I believe now, having looked at the SSI Program for the 2 years I have been on the Human Resources Subcommittee, that there is no entitlement program that is more abused and more fraud-ridden than the SSI Program. What we have done today is take a first step toward entitlement reform.

We have heard a lot of talk about this and people have asked, "What are you going to do about entitlements?" Well, today we have an opportunity to do something about entitlements. We have solid reforms in this proposal that are going to make, I believe, some important gains in controlling the cost of entitlements and reducing fraud and abuse in entitlements.

But this is only a first step. There are many miles to travel before we can clean up the SSI Program from the state it is in right now or even the state it will be in after this legislation has been adopted.

Let me take the time to talk about two things that are, I think, good steps

that we have taken and then focus on the problems that I think still remain. The gentleman from New York [Mr. HOUGHTON] just talked about the middleman provision about which the gentleman from Texas [Mr. PICKLE] had hearings in his Committee on Oversight and that were, I think, addressed on target. It was a very good amendment. It addresses the issue of aliens in this country who come here to this country and get on SSI fraudulently. That is a good amendment, one that is going to cut down on fraud and abuse and save the taxpayers money.

□ 1300

Another step that was a good step that the gentleman from Texas [Mr. PICKLE] and I worked on in the conference committee and were able to get installed in this legislation had to do with mandatory disability reviews. There were no mandatory disability reviews that were going to be provided for in the conference report. We were able to strike a compromise in the House position which was going to require all mandatory disability reviews for all supplemental security recipients, to 100,000 per year for disability cases and for over a 3-year period, and one-third of all children who qualify for SSI, who when they turn 18 are re-evaluated under different criteria, that is as adults, and whether they would qualify for disability as adults rather than disability as children.

We think those are very important steps to determine the level of review that needs to be done. We are going to do a 3-year implementation of this, take a look at the results, and see if we save money. See if there is the need to continue these disability reviews and expand them.

I want to commend the gentleman from Texas [Mr. PICKLE], in particular, for the tremendous work he did in the conference committee to seek this provision and get it included in the conference report.

Unfortunately, we have only taken those few first steps. There are other areas that I think we need some more work to be done in. One is on the SSI DA&A Program, a supplemental security income drug addicts and alcoholics program.

These are people who qualify for SSI simply because they are so addicted to drugs and alcohol they cannot work. They have no other disability, other than the fact they are so drug addicted to illegal narcotics or addicted to alcohol that they can no longer perform work. So we give them money. We give them cash. We give them medical care. In many cases we give them food stamps.

In 1985, there were 3,500 people on this program. Today there are almost 80,000 people on this program. In 1989, we spent \$55 million on this program. Today we spend \$350 million on this program.

Only 8 percent of the people are in treatment. Yet every one is required to

be in treatment. But only 8 percent are in treatment. The Social Security Administration testified before our subcommittee and said that we knew very little about treatment progress of SSI recipients, and could document few, if any, recoveries in the history of the program. So this is not a program that is working.

So what we have been recommending strongly is to do something dramatic to change it. What we have done in this bill, in my opinion, is piecemeal. It is a positive step, but it does not go far enough. We have capped the amount of time you can be on SSI to 36 months, 3 years, that you can be on SSI if you are in the drug addicts and alcoholics program. That is a start. But we have to be much more dramatic in trying to get people off drug addiction and alcoholism and back into the mainstream society, and not paying people money to support their addiction and their habit.

The second thing that I think we went only a very small step on has to do with SSI for children. Ever since the decision back in 1991 in the Zebley case we have seen an explosion of children going on SSI and their parents receiving large checks from the Government. In many areas of the country, they are called crazy checks. These are checks given because now under the Zebley decision, your child qualifies for SSI if your children are exhibiting age-inappropriate behavior.

Now, for age-inappropriate behavior for your children, you get a \$450 check a month from the Federal Government. With the amendment of the gentleman from Wisconsin [Mr. KLECZKA] in the committee, we will do a study as to whether we can turn these cash payments to these parents, who we have evidence in some cases of coaching their children to get these checks, we have a study to look to whether we can go to a voucher program for treatment of children who are having problems, as opposed to cash to parents of these children.

Finally, we really do not address the issue of noncitizens receiving SSI. We have \$7 billion a year being paid to noncitizens in this country for welfare payments, and a big chunk of that is SSI. Half a million people who are noncitizens of this country receive SSI benefits today, and it is a growing problem, growing faster every day. We must do something about that.

This is a positive first step. I hope we can come back in future Congresses to take more steps.

Mr. JACOBS. Mr. Speaker, I want the record to show that Valerie Nixon, Sandy Wise, Elaine Fultz, Cathy Noe, and Phil Mosely have all contributed mightily to putting this whole revolutionary program together. They are staffers on the committee. We could not have done it at all without the help of Janice Mays, the staff director at the Committee on Ways and Means, aka, Amazing Janice.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT]. (Mr. FINGERHUT asked and was given permission to revise and extend his remarks.)

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Indiana for yielding. I want to compliment the gentleman and each and every member of the Committee on Ways and Means, both the majority and minority side, who have led the fight for this historic legislation for so many years. I also want to add my thanks to President Clinton and the administration for endorsing this bill, which gave it critical support when it needed it.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 4277, legislation that would make the Social Security Administration an independent agency with an accountable administrator supported by a bipartisan independent advisory board.

The Social Security Administration is one of the most important agencies of our Federal Government, with 64,000 employees. It is the largest division of the Department of Health and Human Services and one of the largest Federal agencies of any kind. Maintaining the integrity of the Social Security System is vital to the well-being of our seniors. The Government must keep its promises. It must not, and it does not, as the gentleman from Indiana [Mr. JACOBS] said before, use the Social Security moneys for other programs. But an independent agency will maintain the integrity of these funds and will fight for the rights of seniors.

Most importantly, an independent Social Security Agency will protect the agency from the political whims of the moment.

I believe that the final passage of this legislation will greatly benefit my constituents. As an independent agency, the Social Security Administration will be able to focus on the goal of improving service and responding more efficiently and effectively to the people it serves. Most importantly, such a move will enhance the confidence of the American people in an agency which is a vital part of their lives.

Mr. Speaker, there are many other important provisions of this bill. The gentleman from Pennsylvania [Mr. SANTORUM] and others have referred to the provisions with respect to the Social Security disability program to tighten the requirements and make sure we are not needlessly paying out money to support drug and alcohol addiction programs. I support those reforms.

There is also a small but very important reform in this bill that allows election day workers, those people who perform their civic duty, to not have to pay Social Security benefits on their poll payments, a small but very important and significant provision of this bill.

Another important provision of the bill would increase penalties against deceptive mass mailings that cheat

thousands of senior citizens by mimicking official Social Security correspondence.

Mr. Speaker, I strongly support this conference report and urge its passage.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, first off, I want to congratulate the gentleman and the distinguished chairman of the Subcommittee on Social Security on which I serve, too, for the outstanding bipartisan contribution that they have made. It is long overdue, and a lot of the things that are being addressed in this bill, while perhaps there are still further improvements down the road that can be achieved, I think make a major step forward in the right direction. The most important, of course, is depoliticizing any aspect of this important new independent entity, the Social Security Administration as an independent agency.

I think in addition to that, the reforms on drug and alcohol abuse, those are critically important reforms, and the bill does indeed provide the incentives for people to get out of drug and alcohol addiction, and I think that they are two important ingredients of this that in and of themselves, aside from the other reforms that are contained therein, warrant the support on a bipartisan basis of all the Members of this Chamber. I urge every one to vote for the conference report on H.R. 4277.

Mr. Speaker, as a member of the Ways and Means Subcommittee on Social Security, I urge my colleagues to support the conference report on H.R. 4277, the Social Security Administrative Reform Act. I believe this legislation is an important step toward the efficient operation and administration of the Social Security Program.

In too many instances, political fluctuations have brought instabilities to the Social Security Administration. This legislation will remove those uncertainties and allow for continuity in the agency's operations. Starting in April of next year, Social Security will be run by a commissioner and a bipartisan board, appointed for specific terms of office and therefore somewhat more removed from the political process.

Another important provision of this legislation is the reform of disability compensation for drug and alcohol addicts. Current law allows for far too much abuse of the system, intentional or otherwise, as addicts who are not cured of their disability remain on the welfare rolls. In contrast, this legislation forces addicts to assume some measure of responsibility for their condition, not only requiring them to seek treatment but also providing an incentive for them to actively seek self-sufficiency. Requiring treatment will force addicts into beneficial programs, and cutting off benefits after 3 years will undeniably provide motivation for

addicts to put their addictions behind them and return as productive members of society.

These changes are especially relevant in a year when Congress is attempting to tackle welfare reform. No longer can we afford to dole out Federal largess without any promise of improvement. Some have criticized the cutoff of benefits as arbitrary and counterproductive for those who have not yet completed treatment, but I believe that we must provide incentives for those who rely on Federal payments to find other means of support. It is a lesson that we should all bring to the debate over welfare as well.

This legislation makes important changes to the Social Security Administration. And it marks an important change in how we approach our social spending. I hope that my colleagues on both sides of the aisle will join in support of this long overdue reform.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today is another banner day for Congress. Yesterday we passed the Congressional Accountability Act, and today we pass the bill to make Social Security an independent agency and make other important changes within that area.

We want to protect Social Security from political pressures and, most important, guarantee the integrity of our Social Security funds. Since Franklin Delano Roosevelt first pushed Social Security, it has been one of the most important programs to provide for the security and dignity of Americans in retirement. It has always been a very important buffer for people in tough economic times.

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Senior citizens throughout Wisconsin and America can rest a little easier with the passage of this bill. Also I had heard from many poll workers in my district, such as Norm Buckholtz and Eleanor Cavelli, and many others that believe that we need to exempt them from the taxes from Social Security, and I thank the gentleman from Indiana [Mr. JACOBS], for his hard work in that effort.

Finally, and equally importantly, a provision I now call on drug addicts. I had visited many treatment centers in my district and have been working on legislation in this respect. And I believe this is an important provision to limit payments to 36 months and ensure that the moneys are going to curb addiction rather than feed people's addiction. Hopefully this will be just one of a number of steps that we can take in this regard.

So today is a great achievement for the Social Security Program. It is a great achievement for the 103d Congress. I thank the chairman and his committee for their outstanding work. I believe that FDR is smiling with

great favor upon the 103d Congress today.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

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

Mr. CAMP. Mr. Speaker, I thank the gentleman from Kentucky for yielding time to me.

Mr. Speaker, I rise today in support of the Social Security Administrative Reform Act Conference Report.

This bill, establishes the Social Security Administration as an independent agency. It will ensure the integrity accountability of Social Security by greatly diminishing the politics of the agency. It will remove the agency from the control of HHS and better enable the Government to keep its promise to older Americans.

As a member of the Committee on Ways and Means, I have seen evidence of Social Security disability abuse. Under the current, SSI program some drug addicts and alcoholics defraud the system, rather than get treatment for their addiction. This legislation is a first step in addressing the abuse and fraud within the SSI Program. It is our intention to continue working to reform current law and bring a balance to the disability program.

This bill will also provide Social Security tax relief to election workers which have been unfairly taxed causing added administrative burdens to local governments, charged with conducting our elections.

I urge my colleagues to restore senior citizen's trust in the Government by voting for this conference report. It is a good idea for the Social Security Administration and best of all a good idea for the American people.

Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA], the author, I might add, of the reform on the drug addiction.

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

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

Mr. Speaker, I rise in support of the conference report and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, one of the focuses of the 103d Congress has been to make the Federal Government run more efficiently and to increase the general public's confidence in its Government.

We are committed to this objective and have made strides toward achieving it.

H.R. 4277 takes a step in this direction. By making SSA an independent agency, we hope to increase the quality of service it provides.

Currently, SSA is overwhelmed: there is a tremendous backlog in disability cases waiting to be processed, agency employees are sometimes difficult to reach, and responses are often

slow in coming and errorprone upon arrival.

This is due to: an overburdened system plagued by shortages of staff and rising numbers of cases, as well as a high-rate of turnover among top agency officials.

By creating an independent, more stable, structure for the agency, we will hopefully correct some of the problems with the current system.

We will thereby increase confidence that the Social Security System will be able to provide the quality of service and benefits that is expected.

The bill also makes headway in reforming the current system by demanding accountability for disability payments to substance abusers.

My office has received numerous calls from constituents who are adamant that their hard-earned tax dollars not be used to finance the habits of drug addicts and alcoholics.

The issue is not that we should withhold assistance from substance abusers who are seeking rehabilitation. We should help them if they are committed to rehabilitating themselves and improving their lives.

The Department of Health and Human Services Inspector General recently tracked 196 substance abusers on SSI for 3 years:

Only 1 of these 196 recipients left the SSI rolls due to self-sufficiency.

This led the IG to determine that current treatment efforts appear to result in few complete rehabilitations that eliminate a recipient's need for SSI.

Clearly, this is a program that's not working.

If we're not helping substance abusers successfully rehabilitate and become capable of earning income, then the program is failing both the recipient and the taxpayer.

We cannot allow this to continue.

H.R. 4277 includes a time limitation provision I offered, along with my colleague from Oklahoma, [Mr. BREWSTER].

Under this provision, substance abusers who qualify for benefits because of their addictions will only receive cash assistance for 36 months.

Mr. Speaker, at some point, we must say enough is enough. At some point, the recipient must be asked to take ultimate responsibility for his or her life.

By enacting this bill, Congress is saying 3 years is the appropriate point.

While this bill does a good job of addressing some of the problems with the SSI and SSDI Programs, this is just a first step.

Some of the changes in H.R. 4277 are modest ones, and we must ensure that payments are used for their intended purpose.

In general, the Social Security Administrative Reform Act proposes innovative solutions to problems faced in various programs under the jurisdiction of SSA.

However, more must be done.

We must continue to scrutinize this system in search of ways to improve failing programs and recoup wasted resources.

The American people expect and deserve quality service from their government, and they want to know that their tax dollars are being used wisely.

Mr. Speaker, we have the responsibility to live up to these expectations.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong support of this legislation, which includes a provision I offered which will begin conducting continuing disability reviews in the SSI Disability Program—a reform which will make a significant contribution to ending fraud in this program, saving up to \$300 million in future years.

I would like to thank my colleagues, chairman GIBBONS and ranking member BILL ARCHER for their support. I also want to thank subcommittee chairman ANDY JACOBS and ranking member JIM BUNNING, and particularly the gentleman from Texas [Mr. PICKLE], who has been a strong advocate of this reform, and the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. Speaker, compiling a profile of those collecting SSI disability benefits who are most likely to recover is crucial to getting a handle on spending in the SSI Disability Program, which is the fastest growing entitlement in the Federal budget. It is amazing that, until now, the Social Security Administration was not required to verify that persons receiving SSI disability benefits were still eligible for benefits, even after the passage of many years. While many people may well recover from their disability and be able to go back to work, until now we have not required any effort to find this out.

This has only fed the explosion of our disability rolls, thus jeopardizing benefits for those who remain truly disabled and have no other source of income.

Eliminating this oversight is an important feature of H.R. 4277. I urge my colleagues to support responsible reform of our disability programs.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman from Kentucky for yielding time to me.

I also want to thank him for his dedicated work toward bringing this bill to the floor today.

Mr. Speaker, I rise today in strong support of this landmark legislation, H.R. 4277, that finally gives the Social Security Administration its freedom.

By making the Social Security Administration an independent agency, H.R. 4277 gives SSA a chance to operate the way it was originally intended when this program was first created. SSA will no longer be subject to the restraints and red tape that come from

being part of the Department of Health and Human Services.

SSA will be able to concentrate on administering its programs, and provide better, cost effective, and more efficient service to the American people.

Social Security is one of the most important programs that our Government offers. Since just about every American pays into it during their lives, it is our responsibility to make sure that the Social Security system is strong and solvent for generations to come.

By passing this conference report and making SSA an independent agency, we can do just that.

This bill also makes many other improvements to the Social Security system that are badly needed. Specifically, H.R. 4277 cleans up the regulations on Social Security benefits for drug addicts and alcoholics. As it works now, these people can receive Federal benefits with virtually no supervision on how the money is used, or encouragement to get treatment.

But H.R. 4277 changes that. Under this bill we can be sure that American tax dollars are not being used to feed alcohol and drug habits. Instead, H.R. 4277 encourages these folks to get help, to be in therapy and to start getting their lives back on track.

These are needed changes for SSA. They have been a long time in the making and thanks to the hard work of the members on the Social Security Subcommittee and the Ways and Means Committee, we have the chance today to make them.

I urge my colleagues to support these improvements for Social Security and vote yes on this conference report.

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Mr. JACOBS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

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

Mr. HUGHES. Mr. Speaker, I thank the gentleman from Indiana for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 4277, legislation to establish the Social Security Administration as an independent agency. I firmly believe that we must act now to ensure strong, stable, and independent leadership for this large Federal agency which is of crucial importance to virtually every American.

As the former chairman of the Select Committee on Aging and the current Chairman of the Older Americans Caucus, I have held a number of hearings that have detailed serious and costly problems with SSA's ability to provide appropriate assistance to older and disabled Americans. It is very clear from this testimony that we are experiencing a real crisis in service delivery in a number of different areas.

With administrative costs running around 1 percent, Social Security's staffing was put through a rapid

downsizing process in the late 1980's, eliminating nearly one-fourth of its personnel. While steps were needed to streamline the agency, the evidence is overwhelmingly clear that we have gone too far. Many of these reductions were made strictly for political reasons, and they are costing the taxpayers millions of dollars in incorrect benefit payments and forcing many elderly and disabled beneficiaries to face undue hardships.

One of the most serious effects of this political jockeying can be seen in the unacceptable backlog in the Nation's disability program, which is barely treading water under a sea of unprocessed claims and paperwork. Despite completing more casework with fewer staff, the nationwide backlog of unprocessed disability cases is well over 800,000 cases, a level which is some 2½ times larger than it was just 3 years ago, and we can expect the disability caseload to be over 1 million cases by the end of the year. On the front end, the average disabled applicant must wait 5 to 6 months in many areas of the country in order to have his or her initial disability application reviewed. In many instances, people are dying before their casework is processed.

And on the back end, we are costing the taxpayers tens of millions of dollars because we do not have sufficient personnel to review the disability rolls to determine those who have improved enough medically that they should no longer be receiving disability benefits. Consequently, the taxpayers are spending tens of millions of dollars on persons who should no longer be receiving benefits.

In short, we have hundreds of thousands of people waiting inordinate amounts of time to receive the disability insurance they have paid for at the same time that taxpayers are spending estimates of up to \$100 million per year on persons who should not be on disability. Is there any wonder why many of our constituents have the perception that their Government is not working?

In addition, a growing number of Social Security recipients in New Jersey and throughout the country are finding it increasingly difficult to get timely assistance. Busy signals at SSA's national 1-800 telephone service are running over 50 percent on some days, with many older persons telling me that they often just give up because of the busy signals.

Social Security recipients have a right to expect that when they call for questions or assistance, they will not be faced with inordinate delays, busy signals, or staff who are too busy to provide complete and accurate answers to their questions.

Many of these problems can be traced to the fact that Social Security's administrative operations are being driven by short-term political decisions.

There is also a real crisis in accountability and continuity within the agency. In a little over 15 years, there have been 10 Commissioners or Acting Com-

missioners of Social Security. We simply must have more long-term planning and accountability for this vital agency. I believe that establishing Social Security as an independent agency is the only way we can ensure some continuity within the agency and isolate it from short-term budgetary and partisan considerations.

I urge my colleagues to support this important legislation, and I commend the gentleman from Indiana [Mr. JACOBS] and the gentleman from Kentucky [Mr. BUNNING] for their leadership in bringing this bill to the floor, as well as the gentleman from Texas [Mr. PICKLE], who I saw earlier and is in the back of the Chamber, and so many others for making this day possible. It is the right decision, an important decision, I think, in the history of Social Security, and Mr. Speaker, ask my colleagues to support this particular initiative.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

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

Mr. SWIFT. Mr. Speaker, I want to thank the chairman of the subcommittee, the gentleman from Indiana [Mr. JACOBS], and I want to thank the Committee on Ways and Means for their perseverance.

There is a provision in this bill that is kind of a reverse unfunded mandate. We actually help local government with one of its important tasks.

Mr. Speaker, a few years ago Congress inadvertently caused local election officials some serious problems in recruiting and hiring election poll workers. Often these people are already retired, and some Social Security requirements dissuaded many from volunteering for that work on election day. This bill fixes that in a way that has bipartisan support, and will significantly help local election officials get their job done on election day.

Mr. Speaker, I want to thank the chairman of the subcommittee the gentleman from Indiana [Mr. JACOBS]. I want to thank the gentleman from Kentucky [Mr. BUNNING], and I want to thank all the Members of the Committee on Ways and Means for taking care of this problem for the poll workers of America.

Mr. Speaker, as chairman of the Subcommittee on Elections of the House Administration Committee, I have a special reason for being pleased with this legislation. In July 1991, three years ago—State and local election officials noted that because of an oversight in the 1990 OBRA, Omnibus Budget Reconciliation Act, they faced an enormous administrative and financial burden. In the OBRA, Congress extended social security coverage to State and local government officials without noticing that the \$100 exemption for election workers already in place would not be adequate to continue exempting those election work-

ers that no one intended to cover. They did not need the coverage—most are already on retirement, and they did not work at the polls because they needed the money—they have been leaving in droves because of the administrative hassles they now face. And running elections has been more and more difficult to do for the state and local jurisdictions.

The solution was easy, but putting it into effect has not been. The House twice placed a provision to raise the exemption to a realistic figure—\$1,000—in the budget reconciliation bills only to have the Senate object in conference.

But now, in H.R. 4277, this conference bill to make the Social Security Administration an independent agency, we find there is a small provision to raise the exemption for poll workers from \$100 to \$1,000. The provision did not appear by accident. Chairman JACOBS and the committee have worked hard to get this in and to keep it in, and I thank them for it.

Mr. BUNNING. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. YOUNG].

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

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of this all-important, long overdue legislation.

Mr. Speaker, as the representative of one of our Nation's largest populations of Social Security recipients and the chairman of the Congressional Social Security Caucus, I rise in strong support of this conference report on H.R. 4277, the Social Security Administrative Reform Act.

This legislation gives the Social Security Administration long overdue independence from the Department of Health and Human Services and, more importantly, from political pressures that can be exerted on its Commissioner. Under H.R. 4277, the agency would be headed by a single administrator, appointed by the President, but who would serve under the oversight of a seven-member bipartisan board. This board, as the voice for the almost 40 million Americans who receive Social Security benefits, would ensure that the trust funds remain sound and untouched, that payments and cost-of-living adjustment continue to be paid in full and on time, and that the agency continues to provide timely and efficient service for retirees, workers, and employers.

As a member of the House Appropriations Subcommittee on Health and Human Services, which oversees the operations of and funding for the Social Security Administration, I am well aware of the chain of command which currently requires the Commissioner of Social Security to report to the Department of Health and Human Services. Likewise, the agency's budget requests must also be reviewed and approved by the Secretary.

The legislation before us today will enable the Social Security Administration to present directly to Congress and our committee its annual budget request. This is important in that it enables us to know what the new Administrator and Social Security Board believe are

the agency's true funding requirements, not those imposed upon them by the Department of Health and Human Services.

This legislation also takes a number of important steps to further enhance public confidence in the Social Security Program. It cracks down on the payment of supplemental security income [SSI] and disability insurance [DI] benefits for alcoholics and drug abusers. It also requires the Social Security Administration to direct greater resources into preventing, detecting, and terminating fraudulent claims for SSI benefits.

Finally, the conference report retains an important House provision to give the Administrator greater powers to police the mailings and fundraising appeals of various organizations who attempt to mislead and frighten older Americans, many of whom live on small fixed incomes and depend almost solely on their monthly Social Security benefits for their financial well being.

We have become all too familiar with calls, letters, and post cards from our constituents asking if they have to contribute \$5 or \$10 to the variety of organizations that have sprung up to purportedly protect their Social Security benefits. As I tell each of these people who contact me, they do not have to contribute a single penny to any of these organizations to protect their benefits. It is the responsibility of Congress, and my job as their Representative, to ensure that the U.S. Government continues to live up to its commitment to ensure that the Social Security trust funds remain sound and that their benefits and cost of living adjustments are protected.

Mr. Speaker, this is the fourth time the House will consider this legislation and I am pleased to know that after allowing it to die three previous times, our colleagues in the other body have finally joined us in enacting this legislation. It is a reaffirmation that the Social Security trust funds are an independent and self-supporting sector of our Federal Government and that oversight for these funds should be provided for by an independent agency and board.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

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

Mr. Speaker, I want to join with so many of the other speakers who have had such complimentary remarks about the gentleman from Kentucky [Mr. BUNNING], the gentleman from Texas [Mr. PICKLE], and the gentleman from Indiana [Mr. JACOBS] for the fine work they have done on this legislation. I want to join in congratulating them.

Mr. Speaker, as the chairman of the House Republican Social Security Task Force, I rise in support of this conference report to reform our Social Security System.

Social Security is a trust between the American people and their Government. But as the members of the Social Security Task Force heard in a recent hearing, this trust has been eroded. Instead of being invested for the future, billions of Social Security dollars are being spent on programs other than Social Security.

Senior citizens are justifiably upset that political and budget battles have put their hard earned Social Security benefits in jeopardy. The Social Security System is also being abused. Drug addicts and alcoholics are spending their Supplemental Security Income and Social Security Disability Insurance benefits on more drugs and alcohol.

By passing this conference report today, the House will take a significant step to correct these problems. This action is long overdue. Today's bill will make Social Security an independent agency to protect Americans' retirement funds from political and budget battles. Every Social Security beneficiary, both current and future, must be assured that their benefits will be secure, and that the program will be administered fairly and soundly. By walling off Social Security as an independent agency, Congress will help to assure the American people that Social Security funds will be used for Social Security purposes only.

Today's bill also will tighten the rules for drug addicts and alcoholics who receive benefits. As I testified last February to Mr. Jacobs' subcommittee, the American people are outraged that our Social Security system has degenerated into a cash cow for addicts. Nearly 250,000 drug addicts and alcoholics received \$1.4 billion in Social Security Disability Insurance payments last year, with no strings attached. Addicts are cashing their checks and buying drugs the same day. And while I would prefer to see even tougher restrictions, today's bill will impose some tighter rules on SSI and SSDI recipients who are addicts. Benefits to addicts will be cut off after 3 years. Second, benefits must be paid to a responsible party who will ensure that the recipient is participating in a treatment program.

Mr. Speaker, senior citizens deserve to have an independent and depoliticized Social Security Administration to responsibly oversee their retirement benefits. And the American people are looking to Congress to stop the scandalous waste of Social Security funds by addicts. To combat both these problems, I urge my colleagues to support this conference report and help strengthen the Social Security system on behalf of all Americans.

Mr. BUNNING. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

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

Mr. REGULA. Mr. Speaker, I congratulate the sponsor and authors of this legislation. As vice chairman of the Older Americans Caucus, I know how very important it is to senior citizens to have a sense of confidence in their systems, particularly Social Security.

Mr. Speaker, as we all know, there are many groups that communicate to seniors, causing them to worry about

the integrity of the Social Security System. We get letters reaffirming such worries. By making SSA an independent agency, this bill means that the integrity of the Social Security System can be maintained. Moreover, such action will prevent Social Security benefits from being further used as both political and budgeting pawns. Enactment ensures that those who pay into the system will receive their benefits.

I also commend provisions which strengthen safeguards against the use of disability and supplement income payments to support a drug or alcohol habit.

Truly, this bill restores not only the confidence of our present retirees, but the confidence of our future retirees—guaranteeing that our Social Security System can and will be preserved.

Mr. BUNNING. Mr. Speaker, may I ask how much time we have remaining?

The SPEAKER pro tempore (Mr. SERRANO). The gentleman from Kentucky [Mr. BUNNING] has 3 minutes remaining.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume to close debate for our side.

Mr. Speaker, there is one more important point I would like to make in closing. Ever since I have come to Congress I have received hundreds, perhaps thousands, of letters from older citizens who are frightened. They are frightened because unscrupulous lobbying organizations have been scaring them to death with unsolicited mailings saying Congress is about to cut Social Security.

These letters usually read something like this: "Congress is about to act on Social Security cuts. We need your money to stop Congress now." That is just plain cruel, and it is inexcusable.

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Older Americans are usually on fixed incomes and even \$5 or \$10 a month means the difference in food and medication each month. But these groups do not care. They will seize any opportunity to solicit contributions from senior citizens under the guise of lobbying Congress to stop any Social Security cuts. One of the jobs of the new bipartisan board will be to inform the public about Social Security. I am hoping the board will do such a good job of informing the public about Social Security that these unscrupulous organizations and their mailings will be put out of business.

Again, let me reiterate my strong support for this bill. It is time Social Security took its place as a non-partisan and independent agency.

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

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

Mr. Speaker, first I would be pleased to incorporate by reference every word my colleague, the gentleman from Kentucky, has just said. It is pretty reprehensible to rip anybody off, but it is particularly reprehensible to rip off people who may not be adequately informed. There is a work for it, and that is conning. That is wrong.

A moment ago, I omitted mentioning Phil Moseley, a staffer at the Committee on Ways and Means who has contributed greatly to this effort as well. While I am commending, I also commend our President who within a few days, I understand, will take the final step and sign this legislation into law. So break out the firecrackers. Let freedom reign. Independence is at hand for the Social Security System. It is a fine day for the United States.

Mr. JACOBS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

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

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding, and I rise in strong support of this most important legislation. I compliment both sides in working together.

Mr. Speaker, I rise today to express my strong support for the conference report on H.R. 4277, the Social Security Administrative Reform Act of 1994. This important bill makes a number of changes that will help protect the Social Security system on which millions of Americans rely.

First, it makes Social Security an independent agency, which is a position I have long supported by cosponsoring and voting for bills to this effect. Passage of H.R. 4277 this year means that Social Security will become an independent agency no later than March 31, 1995. The new agency will have independent, bipartisan leadership. This will help it function more efficiently for the seniors who depend on Social Security benefits to make ends meet. And the Social Security trust fund will remain protected from political or general budgetary pressures.

Second, the bill attempts to restrict disability insurance and SSI disability payments to substance abusers. Many hardworking Americans were outraged to learn that such a program even existed, spending Social Security funds on drug addicts and alcoholics disabled by their addictions. In my view, the restrictions in H.R. 4277 do not go far enough to get addicts into treatment and back to work. But they are an admission that a problem exists in this area, which the next Congress must continue to address.

H.R. 4277 makes positive changes in 30 other areas, including raising the Social Security exclusion for election workers from \$100 to \$1,000 annually starting on January 1, 1995. Prohibitions on the misuse of Social Security and other Government symbols are strengthened. That responds to mass mailings and solicitations meant to deceive those receiving them into thinking they were sent by the Federal Government. This is a problem many seniors especially have alerted me to, and I am pleased that we are continuing to strengthen penalties against this shameless practice.

Mr. Speaker, I urge Members to support this important legislation, which will help protect the Social Security system in the years to come.

Mr. STARK. Mr. Speaker, I am happy that this conference report contains three provisions that will benefit a small number of motivated, hard-working people with disabilities. I would like to describe these provisions which I offered and which were accepted by the Ways and Means Committee.

An SSI recipient who has a disability has the opportunity to have extra resources or income in order to achieve a work goal under a plan for achieving self-support [PASS]. Currently, an individual with an approved PASS may be eligible for income and resource exclusions for 18 months, followed by two possible extensions of 18 and 12 months, respectively. The maximum of 4 years to achieve a PASS is given to persons pursuing a lengthy educational program. Often it is difficult for a person with a disability to achieve their goal within the given time period and the inflexibility with regard to the length of time allowed can produce anxiety and—in cases when the goal is not achieved in the given time—produces frustration and discouragement.

H.R. 4277 requires the Social Security Administration [SSA] to take into account the needs of the individual and the difficulty of achieving the goal in determining the time necessary for the completion of a PASS.

Presently, an SSI recipient other than a child living with a parent in military service cannot remain outside the United States for more than 30 consecutive days and retain eligibility for SSI. Also, the person must be back in the United States for 30 consecutive days before being considered to be eligible for SSI and only if the individual continues to meet all other eligibility criteria.

A provision in H.R. 4277 allows the SSA to exempt SSI recipients from the 30-day time limit for a period not to exceed 1 year if the individual is fulfilling an educational requirement through a program which is not available in the United States and which will result in improved employment potential. Though this provision will help a very small number of people, it will allow these individuals to compete on a par with other students, disabled or non-disabled, if their educational requirements can only be fulfilled by study in a foreign country. The only way for many people with disabilities to become competitive in the labor force is to become highly educated. Young people, who have the intelligence and stamina to overcome the obstacles that disabilities present and acquire an advanced degree, can look forward to many years as productive members of our society.

Mr. Speaker, the third provision I would like to highlight extends the provisions in current SSI law for protection against loss of Medicaid eligibility because of subsequent cost-of-living increases in Social Security benefits, to those persons who are working and utilizing the section 1619(b) work incentives provisions.

There were a number of other provisions that I proposed and that the Ways and Means Committee accepted but were not accepted by the conferees. One of them would have deemed approved a PASS after 60 days if the SSA had not acted in that time. The Secretary could have subsequently disapproved the PASS prospectively and the individual would have had 6 months to spend down any money that had been saved to accomplish the work goal.

I am happy that in the conference report the conferees requested the General Accounting

Office [GAO] to conduct a study of the PASS program and its procedures since they felt not enough information on the PASS program is available at this time. I look forward to the findings and recommendations that this study will give us.

I am pleased to support the conference report on H.R. 4277.

Ms. SNOWE. Mr. Speaker, I rise to express my support for the conference report on H.R. 4277.

I have been a cosponsor of legislation since the 99th Congress to make the Social Security Administration a separate, independent agency, and I am pleased to be able to cast my vote in favor of this legislation to make it happen. I support this effort because I believe that establishing the Social Security Administration, the ninth largest agency in the Federal Government, as a separate agency would further strengthen the program and ensure that it remains responsive to the millions of elderly and disabled Americans to whom it provides benefits and services.

The Social Security program represents a promise the Federal Government made to Americans. It is vitally important that this promise never be broken and that everyone knows that by paying into the system during their working years they will be assured of getting benefits for themselves and their family in their later years. Making the Social Security Administration an independent agency will help ensure that this promise remains unbroken.

I urge my colleagues to join me in support of this conference report.

Mr. MUFUMU. Mr. Speaker, I rise in support of the conference report on An Independent Social Security Administration (H.R. 4277), which makes the Social Security Administration an independent agency.

The Social Security Administration is responsible for administering the Old-Age and Survivors Insurance Program, Disability Insurance [DI] Program and the Supplemental Security Income [SSI] Program. The Social Security Administration is the ninth largest agency in the Government. The conference agreement establishes the Social Security Administration [SSA] as an independent agency, effective March 31, 1995.

Like the House bill the conference agreement includes several provisions which aim to improve the administration of Social Security DI and SSI programs. For example, the measure requires SSA to conduct continuing disability reviews for all SSI recipients in the same manner as they are now conducted for DI recipients. Further provisions in the agreement will give SSA additional authority to prevent benefit fraud and increase the penalties against deceptive mass mailings that mimic official Social Security correspondence.

In my district of Baltimore, the employees of SSA have asked that I support this measure.

However, Mr. Speaker, my support comes with some reservations. Specifically, I am concerned that Congress' desire to improve and advance the productivity and services of the Social Security Administration, while well-intentioned, may not be enough. In addition to passing this legislation, Congress must give the Social Security Administration the necessary resources to successfully make the smooth transition to independent status.

An example of the transition SSA finds itself going through was recently seen when the So-

cial Security Administration announced that it would cut 1,000 management jobs through attrition. Shortly thereafter, SSA announced that it will need an additional 11,000 employees to handle its increased responsibility.

Another concern I have stems from the fact that the conference report brings SSA into a new realm of responsibility without giving it additional resources. An example of the new responsibilities is a provision in the agreement which restricts payment of disability insurance [DI] and supplemental security income [SSI] for persons with drug and alcohol addictions. Under current law, SSI recipients who have substance abuse problems are required to be paid through a designated second party. Unfortunately, there have been cases in which the alleged supplier of the drug to the abuser was the representative payee.

In a provision I support, this bill requires that where possible, organizations, rather than family or friends, be named as representative payees for Disability Insurance and Supplemental Security Income recipients, unless SSA determines that a family member is appropriate.

However, the agreement requires that the Social Security establish agencies in all 50 states that would find treatment programs for DI and SSI beneficiaries who are substance abusers, monitor their participation in the treatment program, and periodically conduct drug tests to determine if substance abuse problems are continuing. Under this provision, people with substance abuse problems who are receiving disability insurance would be required to participate in treatment, if available, in order to receive benefits. Regardless of participation in the treatment program, DI and SSI benefits to substance abusers would be cut off after 3 years unless the individual qualifies for benefits for reason other than the substance abuse problem.

This will require the Social Security Agency to become involved in a whole new activity; drug testing for DI recipients. I have a number of problems with this, but that discussion is better left for another time.

Mr. Speaker, it is my hope that this conference report will pass to allow the Social Security Administration to become an independent agency. It is my further hope that we recognize the need to give this new agency adequate resources to improve and provide better service.

Mr. MACHTLEY. Mr. Speaker, I rise today in support of the conference report on H.R. 4277, legislation which I believe will take important steps to restore public confidence in the Social Security system.

Throughout my tenure in Congress, many seniors have contacted me to express their fear that the Social Security Trust Fund is being mishandled.

And a recent GAO report, which reported that an estimated 250,000 drug addicts and alcoholics collected approximately \$1.4 billion in Social Security disability insurance and supplemental security income funds last year, proves them right.

While the recipients of these payments are eligible for this Federal assistance, there is little or no evidence that these funds are being used for treatment. Instead, in many cases, these payments are being used to fuel the addictions.

Now my heart goes out to those families that have had to deal with a loved one who is

addicted to drugs or alcohol, and I feel we should continue to offer our help in getting these people treatment.

But the purpose of the Social Security Act is straightforward—to provide for the economic security of our population as it grows older or becomes disabled. It is certainly not intended to provide drug addicts and alcoholics with the financial means to perpetuate their substance abuses.

Making the Social Security Administration an independent agency would greatly enhance public confidence in the management of these funds.

The integrity of the Social Security system is important to me and to many of my constituents, and I firmly believe that this legislation will help to protect the system now and in the future.

I urge my colleagues to support this conference report.

Mr. RIDGE. Mr. Speaker, I am pleased to rise in support of H.R. 4277, the Social Security Administrative Reform Act of 1994.

This legislation makes the Social Security Administration an independent agency within the Federal Government, removing it from its current home within the Department of Health and Human Services [HHS]. H.R. 4277 also contains provisions which place limits and restrictions on Social Security benefits paid to individuals with substance abuse problems.

Mr. Speaker, a priority of mine in Congress has always been, and continues to be, to make sure that the Social Security Administration is able to function as efficiently and timely as possible. Many older citizens in my district and across Pennsylvania live on a fixed income and rely heavily on Social Security benefits.

Giving the agency its independence will free it from the political and bureaucratic problems with which it has been forced to operate for so many years. Such political and bureaucratic problems have jeopardized its ability to perform properly. Making it an independent agency will go a long way in rectifying that problem, and, for this reason, I am pleased to support this legislation.

Also, placing some restrictions and limits on Social Security benefits paid to substance abusers is a step in the right direction. While substance abuse is no longer viewed as merely a behavioral problem and is widely regarded as a medical condition, I believe this legislation accomplishes two very worthy objectives.

First, treatment exists for substance abuse. It is compassionate therefore to encourage those suffering from substance abuse to seek help. Second, it is appropriate, and fair to other Social Security beneficiaries, to make sure that benefits being paid to substance abusers are not being used to sustain their addiction. For these two reasons, I am pleased that an effort was taken to ensure that the provisions contained in H.R. 4277 were done in both a fair and compassionate manner.

Mr. Speaker, making the Social Security program a well-working, long-lasting entity has been one of my highest priorities as a public servant. Keeping Social Security taxes down, and Social Security benefits up is paramount to that effort. H.R. 4277 goes a long way toward that end and I am pleased to rise in support of it. Passage of this legislation is long overdue.

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

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4277.

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

There was no objection.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

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

Mr. JACOBS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The sergeant at arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 431, nays 0, not voting 3, as follows:

[Roll No. 392]

YEAS—431

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armsy
Bacchus (FL)
Bacchus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Burton
Bateman
Beerra
Bailenson
Bentley
Beruter
Berman
Bevill
Billbray
Billbrakis
Bishop
Blackwell
Hilley
Bluta
Boehart
Boehner
Bontila
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert

Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combust
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Doilurns
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolley
Doolittle
Dorzan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)

Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Fliner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gajdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrist
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grans
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock

Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoelstra
Hoke
Holdsen
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Rutchen
Hutto
Hyde
Ingraham
Inhofe
Inoué
Istock
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kapler
Kasich
Kennedy
Kennedy
Kildee
Kim
King
Kingston
Klaczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-
Mazvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey

McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meahan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinar
Mollohan
Montgomery
Moorhead
Moran
Morilla
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Oliver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Kidge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo

Sanders
Sangmeister
Santorum
Sarpaluis
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Siskly
Skaggs
Skeen
Skilton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snope
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tausin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torrice
Towns
Traficant
Tucker
Unschuld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynne
Yates
Young (AK)
Young (FL)
Zeliff
Zinuner

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOT VOTING—3

Brown (FL) Ford (TN) Washington

So the conference report was agreed to.

PUBLIC LAW 103-296—AUG. 15, 1994

**SOCIAL SECURITY INDEPENDENCE AND
PROGRAM IMPROVEMENTS ACT OF 1994**

Public Law 103-296
103d Congress

An Act

Aug. 15, 1994
[H.R. 4277]

Social Security
Independence
and Program
Improvements
Act of 1994.
42 USC 1305
note.

To establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program.

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Social Security Independence and Program Improvements Act of 1994”.

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

Sec. 1. Short title and table of contents.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

- Sec. 101. Establishment of Social Security Administration as an independent agency.
Sec. 102. Commissioner and Deputy Commissioner; other officers.
Sec. 103. Social Security Advisory Board.
Sec. 104. Personnel; budgetary matters; seal of office.
Sec. 105. Transfers to the new Social Security Administration.
Sec. 106. Transition rules.
Sec. 107. Conforming amendments to titles II and XVI of the Social Security Act.
Sec. 108. Additional conforming amendments.
Sec. 109. Rules of construction.
Sec. 110. Effective dates.

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

- Sec. 201. Restrictions on payment of benefits based on disability to substance abusers.
Sec. 202. Commission on childhood disability.
Sec. 203. Regulations regarding completion of plans for achieving self-support.
Sec. 204. SSI eligibility for students temporarily abroad.
Sec. 205. Disregard of cost-of-living increases for continued eligibility for work incentives.
Sec. 206. Expansion of the authority of the Social Security Administration to prevent, detect, and terminate fraudulent claims for OASDI and SSI benefits.
Sec. 207. Disability review required for SSI recipients who are 18 years of age.
Sec. 208. Continuing disability reviews.
Sec. 209. Exemption from adjustment in pass-along requirements.

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

- Sec. 301. Issuance of physical documents in the form of bonds, notes, or certificates to the social security trust funds.
Sec. 302. GAO study regarding telephone access to local offices of the Social Security Administration.
Sec. 303. Expansion of State option to exclude service of election officials or election workers from coverage.
Sec. 304. Use of social security numbers by States and local governments and Federal district courts for jury selection purposes.

- Sec. 305. Authorization for all States to extend coverage to State and local police officers and firefighters under existing coverage agreements.
- Sec. 306. Limited exemption for Canadian ministers from certain self-employment tax liability.
- Sec. 307. Exclusion of totalization benefits from the application of the windfall elimination provision.
- Sec. 308. Exclusion of military reservists from application of the government pension offset and windfall elimination provisions.
- Sec. 309. Repeal of the facility-of-payment provision.
- Sec. 310. Maximum family benefits in guarantee cases.
- Sec. 311. Authorization for disclosure of social security information for purposes of public or private epidemiological and similar research.
- Sec. 312. Misuse of symbols, emblems, or names in reference to Social Security Administration, Department of Health and Human Services, or Department of the Treasury.
- Sec. 313. Increased penalties for unauthorized disclosure of social security information.
- Sec. 314. Increase in authorized period for extension of time to file annual earnings report.
- Sec. 315. Extension of disability insurance program demonstration project authority.
- Sec. 316. Cross-matching of social security account number information and employer identification number information maintained by the Department of Agriculture.
- Sec. 317. Certain transfers to railroad retirement account made permanent.
- Sec. 318. Authorization for use of social security account numbers by Department of Labor in administration of Federal workers' compensation laws.
- Sec. 319. Coverage under FICA of Federal employees transferred temporarily to international organizations.
- Sec. 320. Extension of the FICA tax exemption and certain tax rules to individuals who enter the United States under a visa issued under section 101 of the Immigration and Nationality Act.
- Sec. 321. Technical and clerical amendments.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS AN INDEPENDENT AGENCY.

Section 701 of the Social Security Act (42 U.S.C. 901) is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. (a) There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration (in this title referred to as the 'Administration').

"(b) It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.

SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER; OTHER OFFICERS.

Section 702 of the Social Security Act (42 U.S.C. 902) is amended to read as follows:

"COMMISSIONER; DEPUTY COMMISSIONER; OTHER OFFICERS

"Commissioner of Social Security

"SEC. 702. (a)(1) There shall be in the Administration a Commissioner of Social Security (in this title referred to as the

'Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Commissioner shall be compensated at the rate provided for level I of the Executive Schedule.

"(3) The Commissioner shall be appointed for a term of 6 years, except that the initial term of office for Commissioner shall terminate January 19, 2001. In any case in which a successor does not take office at the end of a Commissioner's term of office, such Commissioner may continue in office until the entry upon office of such a successor. A Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. An individual serving in the office of Commissioner may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

"(4) The Commissioner shall be responsible for the exercise of all powers and the discharge of all duties of the Administration, and shall have authority and control over all personnel and activities thereof.

"(5) The Commissioner may prescribe such rules and regulations as the Commissioner determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Commissioner shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(6) The Commissioner may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Commissioner considers necessary or appropriate, except that this paragraph shall not apply with respect to any unit, component, or provision provided for by this Act.

"(7) The Commissioner may assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees of the Administration as the Commissioner may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Commissioner.

"(8) The Commissioner and the Secretary of Health and Human Services (in this title referred to as the 'Secretary') shall consult, on an ongoing basis, to ensure—

"(A) the coordination of the programs administered by the Commissioner, as described in section 701, with the programs administered by the Secretary under titles XVIII and XIX of this Act; and

"(B) that adequate information concerning benefits under such titles XVIII and XIX is available to the public.

"Deputy Commissioner of Social Security

President.

"(b)(1) There shall be in the Administration a Deputy Commissioner of Social Security (in this title referred to as the 'Deputy Commissioner') who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Deputy Commissioner shall be appointed for a term of 6 years, except that the initial term of office for the Deputy Commissioner shall terminate January 19, 2001. In any case in

which a successor does not take office at the end of a Deputy Commissioner's term of office, such Deputy Commissioner may continue in office until the entry upon office of such a successor. A Deputy Commissioner appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term.

"(3) The Deputy Commissioner shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Deputy Commissioner shall perform such duties and exercise such powers as the Commissioner shall from time to time assign or delegate. The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

"Chief Financial Officer

"(c) There shall be in the Administration a Chief Financial Officer appointed by the Commissioner in accordance with section 901(a)(2) of title 31, United States Code.

"Inspector General

"(d) There shall be in the Administration an Inspector General appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3(a) of the Inspector General Act of 1978." President.

SEC. 103. SOCIAL SECURITY ADVISORY BOARD.

Section 703 of the Social Security Act (42 U.S.C. 903) is amended to read as follows:

"SOCIAL SECURITY ADVISORY BOARD

"Establishment of Board

"SEC. 703. (a) There shall be established a Social Security Advisory Board (in this section referred to as the 'Board').

"Functions of the Board

"(b) On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI. Specific functions of the Board shall include—

"(1) analyzing the Nation's retirement and disability systems and making recommendations with respect to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security;

"(2) studying and making recommendations relating to the coordination of programs that provide health security with programs described in paragraph (1);

"(3) making recommendations to the President and to the Congress with respect to policies that will ensure the solvency

of the old-age, survivors, and disability insurance program, both in the short-term and the long-term;

“(4) making recommendations with respect to the quality of service that the Administration provides to the public;

“(5) making recommendations with respect to policies and regulations regarding the old-age, survivors, and disability insurance program and the supplemental security income program;

“(6) increasing public understanding of the social security system;

“(7) making recommendations with respect to a long-range research and program evaluation plan for the Administration;

“(8) reviewing and assessing any major studies of social security as may come to the attention of the Board; and

“(9) making recommendations with respect to such other matters as the Board determines to be appropriate.

“Structure and Membership of the Board

“(c)(1) The Board shall be composed of 7 members who shall be appointed as follows:

“(A) 3 members shall be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party.

“(B) 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance.

“(C) 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

“(2) The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

“Terms of Appointment

“(d) Each member of the Board shall serve for a term of 6 years, except that—

“(1) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term; and

“(2) the terms of service of the members initially appointed under this section shall begin on October 1, 1994, and expire as follows:

“(A) The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of—

“(i) 2 years;

“(ii) 4 years; and

“(iii) 6 years.

“(B) The terms of service of members initially appointed by the President pro tempore of the Senate shall

expire as designated by the President pro tempore of the Senate at the time of nomination, 1 each at the end of—

“(i) 3 years; and

“(ii) 6 years.

“(C) The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of—

“(i) 4 years; and

“(ii) 5 years.

“Chairman

“(e) A member of the Board shall be designated by the President to serve as Chairman for a term of 4 years, coincident with the term of the President, or until the designation of a successor.

“Expenses and Per Diem

“(f) Members of the Board shall serve without compensation, except that, 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.

“Meetings

“(g)(1) The Board shall meet at the call of the Chairman (in consultation with the other members of the Board) not less than 4 times each year to consider a specific agenda of issues, as determined by the Chairman in consultation with the other members of the Board.

“(2) Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for purposes of conducting business.

“Federal Advisory Committee Act

“(h) The Board shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“Personnel

“(i) The Board shall, without regard to the provisions of title 5, United States Code, relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code. The Board shall appoint such additional personnel as the Board determines to be necessary to provide adequate clerical support for the Board, and may compensate such additional personnel without regard to the provisions of title 5, United States Code, relating to the competitive service.

“Authorization of Appropriations

“(j) There are authorized to be appropriated, out of the Federal Disability Insurance Trust Fund, the Federal Old-Age and Survivors

Insurance Trust Fund, and the general fund of the Treasury, such sums as are necessary to carry out the purposes of this section.”.

SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF OFFICE.

(a) **IN GENERAL.**—Section 704 of the Social Security Act (42 U.S.C. 904) is amended to read as follows:

“ADMINISTRATIVE DUTIES OF THE COMMISSIONER

“Personnel

“SEC. 704. (a)(1) The Commissioner shall appoint such additional officers and employees as the Commissioner considers necessary to carry out the functions of the Administration under this Act, and attorneys and experts may be appointed without regard to the civil service laws. Except as otherwise provided in the preceding sentence or in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

“(2) The Commissioner may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

“(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is substantially greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994 to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Commissioner under subsection (b)(2). The total number of such positions authorized for the Administration shall not at any time be less than the number of such authorized positions as of immediately before such date.

“Budgetary Matters

“(b)(1) The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President’s annual budget for the Administration.

“(2)(A) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Commissioner.

“(B) Appropriations for administrative expenses of the Administration are authorized to be provided on a biennial basis.

“Employment Restriction

“(c) The total number of positions in the Administration (other than positions established under section 702) which—

“(1) are held by noncareer appointees (within the meaning of section 3132(a)(7) of title 5, United States Code) in the Senior Executive Service, or

“(2) have been determined by the President or the Office of Personnel Management to be of a confidential, policy-determining, policy-making, or policy-advocating character and have been excepted from the competitive service thereby, may not exceed at any time the equivalent of 20 full-time positions.

“Seal of Office

“(d) The Commissioner shall cause a seal of office to be made for the Administration of such design as the Commissioner shall approve. Judicial notice shall be taken of such seal.

“Data Exchanges

“(e)(1) Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code)—

“(A) the Secretary shall disclose to the Commissioner any record or information requested in writing by the Commissioner for the purpose of administering any program administered by the Commissioner, if records or information of such type were disclosed to the Commissioner of Social Security in the Department of Health and Human Services under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994; and

“(B) the Commissioner shall disclose to the Secretary or to any State any record or information requested in writing by the Secretary to be so disclosed for the purpose of administering any program administered by the Secretary, if records or information of such type were so disclosed under applicable rules, regulations, and procedures in effect before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994.

“(2) The Commissioner and the Secretary shall enter into an agreement under which the Commissioner provides the Secretary data concerning the quality of the services and information provided to beneficiaries of the programs under titles XVIII and XIX and the administrative services provided by the Social Security Administration in support of such programs. Such agreement shall stipulate the type of data to be provided and the terms and conditions under which the data are to be provided.

Contracts.

“(3) The Commissioner and the Secretary shall periodically review the need for exchanges of information not referred to in paragraph (1) or (2) and shall enter into such agreements as may be necessary and appropriate to provide information to each other or to States in order to meet the programmatic needs of the requesting agencies.

“(4)(A) Any disclosure from a system of records (as defined in section 552a(a)(5) of title 5, United States Code) pursuant to this subsection shall be made as a routine use under subsection (b)(3) of section 552a of such title (unless otherwise authorized under such section 552a).

“(B) Any computerized comparison of records, including matching programs, between the Commissioner and the Secretary shall be conducted in accordance with subsections (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code.

“(5) The Commissioner and the Secretary shall each ensure that timely action is taken to establish any necessary routine uses for disclosures required under paragraph (1) or agreed to pursuant to paragraph (3).”

42 USC 904
note.

(b) **REPORT ON SES POSITIONS UNDER COMPREHENSIVE WORK FORCE PLAN.**—Within 60 days after the establishment by the Commissioner of Social Security of the comprehensive work force plan required under section 704(b)(2) of the Social Security Act (as amended by this Act), the Director of the Office of Personnel Management shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report specifying the total number of Senior Executive Services positions authorized for the Social Security Administration in connection with such work force plan.

42 USC 904
note.

(c) **EFFECTIVE DATE AND TRANSITION RULE FOR CERTAIN DATA EXCHANGE PROVISIONS.**—

(1) **EFFECTIVE DATE.**—Section 704(e)(4) of the Social Security Act (as amended by subsection (a)) shall take effect March 31, 1996.

(2) **TRANSITION RULE.**—Notwithstanding any other provision of law (including subsections (b), (o), (p), (q), (r), and (u) of section 552a of title 5, United States Code), arrangements for disclosure of records or other information, and arrangements for computer matching of records, which were in effect immediately before the date of the enactment of this Act between the Social Security Administration in the Department of Health and Human Services and other components of such Department may continue between the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and such Department during the period beginning on the date of the enactment of this Act and ending March 31, 1996.

42 USC 901
note.

SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) **FUNCTIONS.**—

(1) **IN GENERAL.**—There are transferred to the Social Security Administration all functions of the Secretary of Health and Human Services with respect to or in support of the programs and activities the administration of which is vested in the Social Security Administration by reason of this title and the amendments made thereby. The Commissioner of Social Security shall allocate such functions in accordance with sections 701, 702, 703, and 704 of the Social Security Act (as amended by this title).

(2) **FUNCTIONS OF OTHER AGENCIES.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Social Security Administration shall also perform—

(i) the functions of the Department of Health and Human Services, including functions relating to titles XVIII and XIX of the Social Security Act (including adjudications, subject to final decisions by the Secretary of Health and Human Services), that the Social Security Administration in such Department performed as of immediately before the date of the enactment of this Act, and

(ii) the functions of any other agency for which administrative responsibility was vested in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of this Act.

(B) RULES GOVERNING CONTINUATION OF FUNCTIONS IN THE ADMINISTRATION.—The Social Security Administration shall perform, on behalf of the Secretary of Health and Human Services (or the head of any other agency, as applicable), the functions described in subparagraph (A) in accordance with the same financial and other terms in effect on the day before the date of the enactment of this Act, except to the extent that the Commissioner and the Secretary (or other agency head, as applicable) agree to alter such terms pertaining to any such function or to terminate the performance by the Social Security Administration of any such function.

(b) PERSONNEL, ASSETS, ETC.—

(1) IN GENERAL.—There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Commissioner of Social Security in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this title and the amendments made thereby; and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) UNEXPENDED FUNDS.—Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally appropriated.

(3) EMPLOYMENT PROTECTIONS.—

(A) IN GENERAL.—During the 1-year period beginning March 31, 1995—

(i) the transfer pursuant to this section of any full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such personnel to be separated or reduced in grade or compensation solely as a result of such transfer, and

(ii) except as provided in subparagraph (B), any such personnel who were not employed in the Social Security Administration in the Department of Health and Human Services immediately before the date of the enactment of this Act shall not be subject to directed reassignment to a duty station outside their commuting area.

(B) SPECIAL RULES.—

(i) In the case of personnel whose duty station is in the Washington, District of Columbia, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Baltimore, Maryland, commuting area after September 30, 1995.

(ii) In the case of personnel whose duty station is in the Baltimore, Maryland, commuting area immediately before March 31, 1995, subparagraph (A)(ii) shall not apply with respect to directed reassignment to a duty station in the Washington, District of Columbia, commuting area after September 30, 1995.

(4) OFFICE SPACE.—Notwithstanding section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606), and subject to available appropriations, the Administrator of General Services may, after consultation with the Commissioner of Social Security and under such terms and conditions as the Administrator finds to be in the interests of the United States—

(A) acquire occupiable space in the metropolitan area of Washington, District of Columbia, for housing the Social Security Administration, and

(B) renovate such space as necessary.

(c) INTER-AGENCY TRANSFER ARRANGEMENT.—The Secretary of Health and Human Services and the Commissioner of Social Security shall enter into a written inter-agency transfer arrangement (in this subsection referred to as the “arrangement”), which shall be effective March 31, 1995. Transfers made pursuant to this section shall be in accordance with the arrangement, which shall specify the personnel and resources to be transferred as provided under this section. The terms of such arrangement shall be transmitted not later than January 1, 1995, to the Committee on Ways and Means of the House of Representatives, to the Committee on Finance of the Senate, and to the Comptroller General of the United States. Not later than February 15, 1995, the Comptroller General shall submit a report to each such Committee setting forth an evaluation of such arrangement.

Reports.

42 USC 901
note.

SEC. 106. TRANSITION RULES.

(a) TRANSITION RULES RELATING TO OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION.—

(1) APPOINTMENT OF INITIAL COMMISSIONER OF SOCIAL SECURITY.—The President shall nominate for appointment the initial Commissioner of Social Security to serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) not later than 60 days after the date of the enactment of this Act.

(2) ASSUMPTION OF OFFICE OF INITIAL COMMISSIONER BEFORE EFFECTIVE DATE OF NEW AGENCY.—If the appointment of the initial Commissioner of Social Security pursuant to section 702 of the Social Security Act (as amended by this Act) is confirmed by the Senate pursuant to such section 702 before March 31, 1995, the individual shall take office as Commissioner immediately upon confirmation, and, until March 31, 1995, such Commissioner shall perform the functions of the Commissioner of Social Security in the Department of Health and Human Services.

(3) TREATMENT OF INSPECTOR GENERAL AND OTHER APPOINTMENTS.—At any time on or after the date of the enactment of this Act, any of the officers provided for in section 702 of the Social Security Act (as amended by this title) and any of the members of the Social Security Advisory Board provided for in section 703 of such Act (as so amended) may be nominated

and take office, under the terms and conditions set out in such sections.

(4) **COMPENSATION FOR INITIAL OFFICERS AND BOARD MEMBERS BEFORE EFFECTIVE DATE OF NEW AGENCY.**—Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Commissioner of Social Security or the Social Security Administration by this title, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer or employee of the new Social Security Administration and of any member or staff of the Social Security Advisory Board who takes office pursuant to this subsection before March 31, 1995, until such time as funds for that purpose are otherwise available.

(5) **INTERIM ROLE OF CURRENT COMMISSIONER AFTER EFFECTIVE DATE OF NEW AGENCY.**—In the event that, as of March 31, 1995, an individual appointed to serve as the initial Commissioner of Social Security has not taken office, until such initial Commissioner has taken office, the officer serving on March 31, 1995, as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall, while continuing to serve as such Commissioner of Social Security (or Acting Commissioner of Social Security), serve as Commissioner of Social Security (or Acting Commissioner of Social Security, respectively) in the Social Security Administration established under such section 701 and shall assume the powers and duties under such Act (as amended by this Act) of the Commissioner of Social Security in the Social Security Administration as so established under such section 701. In the event that, as of March 31, 1995, the President has not nominated an individual for appointment to the office of Commissioner of Social Security in the Social Security Administration established under such section 701, then the individual serving as Commissioner of Social Security (or Acting Commissioner of Social Security, if applicable) in the Department of Health and Human Services shall become the Acting Commissioner of Social Security in the Social Security Administration as so established under such section 701.

(6) **INTERIM INSPECTOR GENERAL.**—The Commissioner of Social Security may appoint an individual to assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under section 701 of the Social Security Act for a period not to exceed 60 days. The Inspector General of the Department of Health and Human Services may, when so requested by the Commissioner, while continuing to serve as Inspector General in such Department, serve as Inspector General of the Social Security Administration established under such section 701 and shall assume the powers and duties under the Inspector General Act of 1978 of Inspector General of the Social Security Administration as established under such section 701. The Social Security Administration shall reimburse the Office of Inspector General of the Department of Health and Human Services for costs of any functions performed pursuant to this subsection, from funds available to the Administration at the time the functions are performed. The authority under this

paragraph to exercise the powers and duties of the Inspector General shall terminate upon the entry upon office of an Inspector General for the Social Security Administration under the Inspector General Act of 1978.

(7) **ABOLISHMENT OF OFFICE OF COMMISSIONER OF SOCIAL SECURITY IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**—Effective when the initial Commissioner of Social Security of the Social Security Administration established under section 701 of the Social Security Act (as amended by this title) takes office pursuant to section 702 of such Act (as so amended)—

(A) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(B) section 5315 of title 5, United States Code, is amended by striking the following:

“Commissioner of Social Security, Department of Health and Human Services.”.

(b) **CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.**—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements (and ongoing negotiations relating to such collective bargaining agreements), recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or the Secretary’s delegate), and (B) which relate to functions which, by reason of this title, the amendments made thereby, and regulations prescribed thereunder, are vested in the Commissioner of Social Security; and

(2) which are in effect immediately before March 31, 1995, shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Commissioner, except that any collective bargaining agreement shall remain in effect until the date of termination specified in such agreement.

(c) **CONTINUATION OF PROCEEDINGS.**—The provisions of this title (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before March 31, 1995, with respect to functions vested (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) in the Commissioner of Social Security, except that such proceedings, to the extent that such proceedings relate to such functions, shall continue before such Commissioner. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this title had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Commissioner, by a court of competent jurisdiction, or by operation of law.

(d) **CONTINUATION OF SUITS.**—Except as provided in this subsection—

(1) the provisions of this title shall not affect suits commenced before March 31, 1995; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this title had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in such officer's official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this title. In any suit, action, or other proceeding pending immediately before March 31, 1995, the court or hearing officer may at any time, on the motion of the court or hearing officer or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This title shall not have the effect of releasing or extinguishing any civil or criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this title, the amendments made thereby, and regulations prescribed thereunder) is vested in the Commissioner of Social Security.

(f) JUDICIAL REVIEW.—Orders and actions of the Commissioner of Social Security in the exercise of functions vested in such Commissioner under this title and the amendments made thereby (other than functions performed pursuant to 105(a)(2)) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before March 31, 1995. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Commissioner shall continue to apply to the exercise of such function by such Commissioner.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Commissioner of Social Security under this title, the amendments made thereby, and regulations prescribed thereunder, such Commissioner shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Commissioner, and actions of such Commissioner shall have the same force and effect as when exercised by such Secretary.

SEC. 107. CONFORMING AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) (other than section 201, section 231(c), section 226, and section 226A) and title XVI of such Act (42 U.S.C. 1382 et seq.) (other than section 1614(f)(2)(B)) are each amended—

(1) by striking, wherever it appears, "Secretary of Health and Human Services" and inserting "Commissioner of Social Security";

(2) by striking, wherever it appears, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration"; and

42 USC 1381
et seq.

(4) by striking, wherever it appears, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): “Secretary”, “Secretary’s”, “his”, “him”, “he”, “her”, and “she”, and inserting (in the case of the word “Secretary”) “Commissioner of Social Security”, (in the case of the word “Secretary’s”) “Commissioner’s”, (in the case of the word “his”) “the Commissioner’s”, (in the case of the word “him”) “the Commissioner”, (in the case of the word “her”) “the Commissioner” or “the Commissioner’s”, as may be appropriate, and (in the case of the words “she” or “he”) “the Commissioner”.

(b) AMENDMENTS TO SECTION 201.—

(1) Subsections (a)(3), (a)(4), (b)(1), and (b)(2) of section 201 of such Act (42 U.S.C. 401) are amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(2) Subsections (a)(3) and (b)(1) of section 201 of such Act (42 U.S.C. 401) are amended by striking “such Secretary” and inserting “such Commissioner”.

(3) Section 201(c) of such Act (42 U.S.C. 401(c)) is amended—

(A) in the first sentence, by inserting “the Commissioner of Social Security,” before “the Secretary of the Treasury”; and

(B) in the fifth sentence, by striking “Commissioner of Social Security” and inserting “Deputy Commissioner of Social Security”.

(4) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended—

(A) in clause (i), by striking “by him and the Secretary of Health and Human Services” and inserting “by the Managing Trustee, the Commissioner of Social Security, and the Secretary of Health and Human Services”, and by striking “by the Department of Health and Human Services and the Treasury Department for the administration of titles II, XVI, and XVIII of this Act” and inserting “by the Department of Health and Human Services for the administration of title XVIII of this Act, and by the Department of the Treasury for the administration of titles II and XVIII of this Act”;

(B) in clause (ii), by striking “method prescribed by the Board of Trustees under paragraph (4)” and inserting “applicable method prescribed under paragraph (4)”, by striking “the Secretary of Health and Human Services” and inserting “the Commissioner of Social Security”, and by striking “the Department of Health and Human Services” and inserting “the Social Security Administration”; and

(C) in the matter following clause (ii), by striking “titles II, XVI, and XVIII” in the first sentence and inserting “titles II and XVIII”, and by striking the last sentence and inserting the following: “There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible,

the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.”

(4)(A) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

“(B) After the close of each fiscal year—

“(i) the Commissioner of Social Security shall determine—

“(I) the portion of the costs, incurred during such fiscal year, of administration of this title, title XVI, and title XVIII for which the Commissioner is responsible and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund of the Treasury,

“(II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund,

“(III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund,

“(IV) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

“(V) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund, and

“(ii) the Secretary of Health and Human Services shall determine—

“(I) the portion of the costs, incurred during such fiscal year, of the administration of title XVIII for which the Secretary is responsible, which should have been borne by the general fund of the Treasury,

“(II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and

“(III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund.

“(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Commissioner of Social Security and the Secretary shall each certify to the Managing Trustee the amounts, if any, which should be transferred from one to any of the other such Trust Funds and the amounts, if any, which should be transferred between the Trust Funds (or one of the Trust Funds) and the general fund of the Treasury, in order to ensure that each of the Trust Funds and the general fund of the Treasury have borne their proper share of the costs, incurred during such fiscal year, for—

“(i) the parts of the administration of this title, title XVI, and title XVIII for which the Commissioner of Social Security is responsible,

“(ii) the parts of the administration of title XVIII for which the Secretary is responsible, and

“(iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)).

The Managing Trustee shall transfer any such amounts in accordance with any certification so made.

“(D) The determinations required under subclauses (IV) and (V) of subparagraph (B)(i) shall be made in accordance with the cost allocation methodology in existence on the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, until such time as the methodology for making the determinations required under such subclauses is revised by agreement of the Commissioner and the Secretary, except that the determination of the amounts to be borne by the general fund of the Treasury with respect to expenditures incurred in carrying out the functions of the Social Security Administration specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4).”

(5) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended, in the second sentence, by striking “established and maintained by the Secretary of Health and Human Services” and inserting “maintained by the Commissioner of Social Security”, and by striking “Secretary shall furnish” and inserting “Commissioner of Social Security shall furnish”.

(6) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended to read as follows:

“(4) The Commissioner of Social Security shall utilize the method prescribed pursuant to this paragraph, as in effect immediately before the date of the enactment of the Social Security Independence and Program Improvements Act of 1994, for determining the costs which should be borne by the general fund of the Treasury of carrying out the functions of the Commissioner, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Boards of Trustees of such Trust Funds consider such action advisable, they may modify the method of determining such costs.”

(7) Section 201(i)(1) of such Act (42 U.S.C. 401(i)(1)) is amended to read as follows:

“(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.”

(8) Subsections (j) and (k) of section 201 of such Act (42 U.S.C. 401) are each amended by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”.

(9) Section 201(l)(3)(B)(iii)(II) of such Act (42 U.S.C. 401(l)(3)(B)(iii)(II)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(10) Section 201(m)(3) of such Act (42 U.S.C. 401(m)(3)) is amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(c) AMENDMENT TO SECTION 231.—Section 231(c) of such Act (42 U.S.C. 431(c)) is amended by striking “Secretary determines” and inserting “Commissioner of Social Security and the Secretary jointly determine”.

SEC. 108. ADDITIONAL CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—

(1) Title VII of the Social Security Act (42 U.S.C. 901 et seq.) is amended by adding at the end the following new section:

“DUTIES AND AUTHORITY OF SECRETARY

“SEC. 712. The Secretary shall perform the duties imposed upon the Secretary by this Act. The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures as may be necessary for carrying out the functions of the Secretary under this Act. The Secretary may appoint attorneys and experts without regard to the civil service laws.”

42 USC 913.

(2) Section 706 of such Act (42 U.S.C. 907) is repealed. This paragraph shall not apply with respect to the Advisory Council for Social Security appointed in 1994.

42 USC 907
note.

(3) Paragraph (2) of section 709(b) of such Act (42 U.S.C. 910(b)) is amended by striking “(as estimated by the Secretary)” and inserting “(for amounts which will be paid from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as estimated by the Commissioner, and for amounts which will be paid from the Federal Hospital Insurance Trust and the Federal Supplementary Medical Insurance Trust Fund, as estimated by the Secretary)”.

(b) AMENDMENTS TO TITLE XI.—

(1) Section 1101(a) of such Act (42 U.S.C. 1301(a)) is amended by adding at the end the following new paragraph:

“(10) The term ‘Administration’ means the Social Security Administration, except where the context requires otherwise.”

(2) Section 1106(a) of such Act (42 U.S.C. 1306(a)) is amended—

(A) by inserting “(1)” after “(a)”;

(B) by striking “Department of Health and Human Services” each place it appears and inserting “applicable agency”;

(C) by striking “Secretary” each place it appears and inserting “head of the applicable agency”; and

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

“(2) For purposes of this subsection and subsection (b), the term ‘applicable agency’ means—

“(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

“(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.”

(3) Section 1106(b) of such Act (42 U.S.C. 1306(b)) is amended—

(A) by striking "Secretary" each place it appears and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) of such Act (42 U.S.C. 1306(c)) is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Commissioner of Social Security or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Commissioner or Secretary".

(5) Section 1106(d) of such Act (added by section 311 of this Act) is amended—

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

(B) by striking "Secretary" the second place it appears and inserting "Commissioner";

(C) by striking "Secretary" the third place it appears and inserting "Commissioner in consultation with the Secretary of Health and Human Services"; and

(D) by striking "Secretary" each subsequent place it appears and inserting "Commissioner".

(6) Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended by striking "the Secretary of Health and Human Services" and inserting "the Commissioner of Social Security or the Secretary".

(7) Section 1110 of such Act (42 U.S.C. 1310) is amended—

(A) by striking "he", "his", and "him" each place they appear (except in subsection (b)(2)(A)) and inserting "the Commissioner", "the Commissioner's", and "the Commissioner", respectively;

(B) in subsection (a)(2), by inserting "(or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning titles II or XVI)" after "Secretary";

(C) in subsection (b)(1)—

(i) by striking "Secretary" each place it appears in the first two sentences and inserting "Commissioner";

(ii) by striking in the third sentence "determined by the Secretary," and inserting "determined by the Commissioner with respect to the old-age, survivors, and disability insurance programs under title II and the supplemental security income program under title XVI, and by the Secretary with respect to other titles of this Act,"; and

(iii) by striking the fourth sentence and inserting the following new sentences: "If, in order to carry out a project under this subsection, the Commissioner requests a State to make supplementary payments (or the Commissioner makes them pursuant to an agreement under section 1616) to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments, the Commissioner shall reimburse such State for the non-Federal share of such payments from amounts appropriated to carry out title XVI. If, in

order to carry out a project under this subsection, the Secretary requests a State to provide medical assistance under its plan approved under title XIX to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such assistance from amounts appropriated to carry out title XVI, which shall be provided by the Commissioner to the Secretary for this purpose.”;

(D) in subsection (b)(2), by striking “Secretary” each place it appears and inserting “Commissioner”; and

(E) in subsection (b), by striking paragraph (3).

(8) Subsections (b) and (c) of section 1127 of such Act (42 U.S.C. 1320a-6) are each amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(9) Section 1128(f) of such Act (42 U.S.C. 1320a-7(f)) is amended—

(A) in paragraph (1), by inserting after “section 205(g)” the following: “, except that, in so applying such sections and section 205(l), any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”, and

(B) in paragraph (3), by inserting after “title II” the following: “, except that, in so applying such section and section 205(l), any reference therein to the Commissioner of Social Security shall be considered a reference to the Secretary”.

(10)(A) Section 1129 of such Act (added by section 206(b) of this Act) is amended—

(i) by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”;

(ii) in subsection (a)(1)—

(I) by striking “exclude, as provided in section 1128,” and inserting “recommend that the Secretary exclude, as provided in section 1128,”; and

(II) by striking “and to direct” and all that follows through “determines”;

(iii) in subsection (g)—

(I) by striking “Secretary’s” and inserting “Commissioner’s”; and

(II) by striking “the provisions” and all that follows and inserting the following: “the Commissioner shall notify the Secretary of the final determination and the reasons therefor, and the Secretary shall then notify the entities described in section 1128A(h) of such final determination.”;

(iv) in subsection (k), by inserting “based on a recommendation under subsection (a)” after “section 1128”; and

(v) in subsection (l) (added by section 206(e)(1)), by striking “Department of Health and Human Services” and inserting “Social Security Administration”.

(B) Section 206(g) of this Act is amended—

(i) by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”; and
 (ii) by striking “Secretary has exercised” and inserting “Commissioner has exercised”.

(11) Section 1131 of such Act (42 U.S.C. 1320b-1) is amended—

(A) by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”;

(B) in subsection (a)(1)(A), by adding “or” at the end;

(C) in subsection (a)(1)(B), by striking “or” at the end;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

“(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or”; and

(G) in the matter in subsection (a) following paragraph

(3) (as so redesignated), by striking “he” and inserting “the Commissioner of Social Security”, by striking “paragraph (1)” and inserting “paragraph (1) or (2)”, by striking “paragraph (2)” and inserting “paragraph (3)”, and by striking “paragraph (1) or (2)(A)” and inserting “paragraph (1), (2), or (3)(A)”.

(12) Section 1140 of such Act (42 U.S.C. 1320b-10) (as amended by section 312 of this Act) is amended—

(A) in subsection (a)(2)—

(i) by inserting “(A)” after “(2)”;

(ii) by striking “or of the Department of Health and Human Services”;

(iii) by striking “which the Secretary shall prescribe” and inserting “which the Commissioner of Social Security shall prescribe”; and

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

“(B) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.”;

(B) in subsection (b), by striking “the Secretary” and inserting “the Commissioner or the Secretary (as applicable)”;

(C) in subsection (c)(2), by striking “the Secretary” each place it appears and inserting “the Commissioner or the Secretary (as applicable)”;

(D) in subsection (d), by striking “the Office of Inspector General of the Department of Health and Human Services” and inserting “the Office of the Inspector General of the Social Security Administration or the Office of the Inspector General of the Department of Health and Human Services (as appropriate)”.

(13) Section 1141 of such Act (42 U.S.C. 1320b-11) is amended—

(A) by striking “Secretary” each place it appears and inserting “Commissioner of Social Security”;

(B) by striking “Secretary’s” each place it appears and inserting “Commissioner’s”;

(C) in the first sentence of subsection (a), by striking “under the direction of the Commissioner of Social Security,”; and

(D) in subsection (d)(6), by striking “Department of Health Services and inserting “Social Security Administration”.

(14) Section 1155 of such Act (42 U.S.C. 1320c-4) is amended by striking “(to the same extent as is provided in section 205(b))” and all that follows and inserting “(to the same extent as beneficiaries under title II are entitled to a hearing by the Commissioner of Social Security under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection.”.

(c) AMENDMENTS TO TITLE XVIII.—

(1) Section 1817 of such Act (42 U.S.C. 1395i) is amended—

(A) in subsection (a), by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”;

(B) in subsection (b), by inserting “the Commissioner of Social Security,” before “the Secretary of the Treasury”; and

(C) in subsection (f), by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(2) Section 1840(a) of such Act (42 U.S.C. 1395s(a)) is amended—

(A) in paragraph (1), by striking “Secretary” and inserting “Commissioner of Social Security”, and by adding at the end the following new sentence: “Such regulations shall be prescribed after consultation with the Secretary.”; and

(B) in paragraph (2), by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(3) Section 1841(b) of such Act (42 U.S.C. 1395t) is amended by inserting “the Commissioner of Social Security,” before “the Secretary of the Treasury”.

(4) Section 1872 of such Act (42 U.S.C. 1395ii) is amended by inserting after “title II” the following: “, except that, in applying such provisions with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(5) Sections 1866(h)(1), 1869(b)(1), and 1881(g)(3) of such Act (42 U.S.C. 1395cc(h)(1), 1395ff(b)(1), 1395rr(g)(3)) are amended by inserting after “section 205(g)” the following: “, except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of

Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(6) Section 1876(c)(5)(B) of such Act (42 U.S.C. 1395mm(c)(5)(B)) is amended by adding at the end the following: “In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.”.

(d) AMENDMENTS TO TITLE XIX.—

(1) Section 1902(a)(10)(A)(ii)(XI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XI)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(2) Section 1905(j) of such Act (42 U.S.C. 1396d(j)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(3) Section 1905(q)(2) of such Act (42 U.S.C. 1396d(q)(2)) is amended by striking “Secretary” and inserting “Commissioner of Social Security”.

(4) Section 1910(b)(2) of such Act (42 U.S.C. 1396i(b)(2)) is amended, in the first sentence, by inserting after “section 205(g)” the following: “, except that, in so applying such sections and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(5) Section 1918 of such Act (42 U.S.C. 1396q) is amended by inserting after “title II” the following: “, except that, in so applying such subsections, and in applying section 205(l) thereto, with respect to this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

(e) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5312 the following new item:

“Commissioner of Social Security, Social Security Administration.”;

(2) by adding at the end of section 5313 the following new item:

“Deputy Commissioner of Social Security, Social Security Administration.”;

(3) by adding at the end of section 5315 the following new item:

“Inspector General, Social Security Administration.”;

(4) by striking “Secretary of Health, Education, and Welfare” each place it appears in section 8141 and inserting “Commissioner of Social Security”; and

(5) by striking “Secretary of Health and Human Services” in section 8347(m)(3) and inserting “Commissioner of Social Security”.

(f) AMENDMENTS TO FOOD STAMP ACT OF 1977.—

(1) Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by inserting “the Commissioner of Social Security and” before “the Secretary of Health and Human Services”.

(2) Sections 6(g), 11(j), and 16(e) of such Act (7 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is amended by adding “, the Commissioner of Social Security” after “the Secretary”.

(g) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707(e)(3) of title 14, United States Code, is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(h) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) Subsections (c)(1), (c)(2)(E), (e)(2), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 are amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(2) Section 3121(b)(10)(B) of such Code is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(3) Section 3127 of such Code is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(4) Section 6050F(c)(1)(A) of such Code is amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(5) Subsections (d) and (f) of section 6057 of such Code are amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(6) Section 6103(l)(5) of such Code is amended—

(A) by striking “DEPARTMENT OF HEALTH AND HUMAN SERVICES” in the heading and inserting “SOCIAL SECURITY ADMINISTRATION”; and

(B) by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(7) Subsections (d)(3)(C) and (e) of section 6402 of such Code are amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(8) Section 6511(d)(5) of such Code is amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(9)(A) Subsections (b)(2) and (h) of section 9704 of such Code are amended by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”.

(B) Section 9706 of such Code is amended—

(i) by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”;

(ii) in such section as amended by clause (i), by striking “Secretary” each place it appears and inserting “Commissioner”; and

(iii) in subsection (d)(3), by striking “Secretary’s” and inserting “Commissioner’s”.

(i) AMENDMENTS TO BLACK LUNG BENEFITS ACT.—

(1) Section 402(c) of the Black Lung Benefits Act (30 U.S.C. 902(c)) is amended by striking “where used in part B” and all that follows through “part C” and inserting “where used in part C”.

(2) Part B of such Act (30 U.S.C. 921 et seq.) is amended by striking “Secretary of Health, Education, and Welfare” each place it appears and inserting “Commissioner of Social Security”, and by striking “Secretary” each place it otherwise appears in reference to the Secretary of Health and Human Services and inserting “Commissioner of Social Security”.

(3) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking “and the Secretary of Health, Education, and Welfare” and inserting “, the Commissioner of Social Security, and the Secretary of Health and Human Services”; and

(B) in subsection (b), by striking “the Secretary of Health, Education, and Welfare” and inserting “the Commissioner of Social Security”.

(4) Section 435 of such Act (30 U.S.C. 945) is amended by striking “Secretary of Health, Education, and Welfare” each place it appears and inserting “Commissioner of Social Security”.

(5) Section 508 of such Act (30 U.S.C. 957) is amended by striking “the Secretary of Health, Education, and Welfare,” and inserting “the Secretary of Health and Human Services, the Commissioner of Social Security.”

(j) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—

(1) Section 901(b)(2) of title 31, United States Code, is amended by adding at the end the following:

“(H) The Social Security Administration.”

(2) Section 3720A(f)(2) of such title is amended by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”.

(k) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 5105 of title 38, United States Code, is amended—

(1) by striking “Secretary of Health and Human Services” each place it appears and inserting “Commissioner of Social Security”; and

(2) by striking the second sentence of subsection (b) and inserting the following new sentence: “A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other official.”

(l) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—

(1) Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by striking “and” at the end of subparagraph (V); and

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

“(W) of the Social Security Administration, the functions of the Inspector General of the Department of Health and Human Services which are transferred to the Social Security Administration by the Social Security Independence and Program Improvements Act of 1994 (other than functions performed pursuant to section 105(a)(2) of such Act), except that such transfers shall be made in accordance with the provisions of such Act and shall not be subject to subsections (b) through (d) of this section; and”.

(2) Section 11 of such Act (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting “; or the Commissioner of Social Security, Social Security Administration” before “; as the case may be”; and

(B) in paragraph (2), by inserting “, or the Social Security Administration” before “; as the case may be”.

(m) SECTION 505 OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980.—Section 505 of the Social Security Disability Amendments of 1980 is amended—

42 USC 1310
note.

(1) in subsection (a), by striking “Secretary of Health and Human Services” and inserting “Commissioner of Social Security”;

(2) in subsection (a)(3), by amending the first sentence to read as follows: “In the case of any experiment or demonstration project under paragraph (1) which is initiated before June 10, 1996, the Commissioner may waive compliance with the benefit requirements of title II of the Social Security Act, and the Secretary of Health and Human Services may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII of such Act, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.”; and

(3) in subsections (a) and (c), by striking “Secretary” each place it otherwise appears and inserting “Commissioner”.

SEC. 109. RULES OF CONSTRUCTION.

42 USC 901
note.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Department of Health and Human Services with respect to such Department’s functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary’s functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the Commissioner of Social Security pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the Commissioner of Social Security.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or a provision of law amended by this title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act or other functions performed by the officer or employee of the Social Security Administration pursuant to section 105(a)(2) of this Act, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

42 USC 401
note.

SEC. 110. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this title, this title, and the amendments made by such title, shall take effect March 31, 1995.

(b) TRANSITION RULES.—Section 106 shall take effect on the date of the enactment of this Act.

(c) EXCEPTIONS.—The amendments made by section 103, subsections (b)(4) and (c) of section 105, and subsections (a)(1), (e)(1), (e)(2), (e)(3), and (1)(2) of section 108 shall take effect on the date of the enactment of this Act.

TITLE II—PROGRAM IMPROVEMENTS RELATING TO OASDI AND SSI

**SEC. 201. RESTRICTIONS ON PAYMENT OF BENEFITS BASED ON
DISABILITY TO SUBSTANCE ABUSERS.**

(a) AMENDMENTS RELATING TO BENEFITS BASED ON DISABILITY UNDER TITLE II OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—Section 205(j)(1) of the Social Security Act (42 U.S.C. 405(j)(1)) is amended—

(i) by inserting "(A)" after "(j)(1)";

(ii) in the last sentence, by inserting ", if the interest of the individual under this title would be served thereby," after "alternative representative payee or"; and

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

"(B) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, certification of payment of such benefits to a representative payee shall be deemed to serve the interest of such individual under this title. In any case in which such certification is so deemed under this subparagraph to serve the interest of an individual, the Secretary shall include, in such individual's notification of entitlement, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary's determination of such individual's disability and that the Secretary is therefore required to make a certification of payment of such individual's benefits to a representative payee."

(B) CONFORMING AMENDMENT.—Section 205(j)(2)(D)(ii)(II) of such Act (42 U.S.C. 402(j)(2)(D)(ii)(II)) is amended by striking “or under the age of 15” and inserting “, under the age of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability) is eligible for benefits under this title by reason of disability.”. 42 USC 405.

(C) 90-DAY DELAY IN DEFERRAL OR SUSPENSION OF BENEFITS FOR CURRENT BENEFICIARIES.—In the case of an individual who, as of 180 days after the date of the enactment of this Act, has been determined to be under a disability, if alcoholism or drug addiction is a contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(j)(2)(D) of the Social Security Act, make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph, until such time during such period as the selection of a representative payee is made pursuant to section 205(j) of such Act. 42 USC 405 note.

(D) EFFECTIVE DATE.—

(i) GENERAL RULE.—Except as provided in clause (ii), the amendments made by this paragraph shall apply with respect to benefits paid in months beginning after 180 days after the date of the enactment of this Act. 42 USC 405 note.

(ii) TREATMENT OF CURRENT BENEFICIARIES.—In any case in which—

(I) an individual is entitled to benefits based on disability (as defined in section 205(j)(7) of the Social Security Act, as amended by this section),

(II) the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and

(III) alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability,

the amendments made by this paragraph shall apply with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary’s determination and that the Secretary is therefore required to make a certification of payment of such individual’s benefits to a representative payee.

(E) STUDY REGARDING FEASIBILITY, COST, AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION.— 42 USC 405 note.

(i) STUDY.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the rep-

representative payee program. In such study, the Secretary shall examine—

(I) the feasibility, cost, and equity of requiring representative payees for all individuals entitled to benefits based on disability under title II or XVI of the Social Security Act who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material in any case to the Secretary's determination of disability,

(II) the feasibility, cost, and equity of providing benefits through non-cash means, including (but not limited to) vouchers, debit cards, and electronic benefits transfer systems,

(III) the extent to which child beneficiaries are afflicted by drug addiction or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment, and

(IV) the extent to which children's representative payees are afflicted by drug addiction or alcoholism, and methods to identify children's representative payees afflicted by drug addiction or alcoholism and to ensure that benefits continue to be provided to beneficiaries appropriately.

(ii) REPORT.—Not later than December 31, 1995, the Secretary shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the findings of the Secretary based on such study. Such report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

(2) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.—

(A) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.—Section 205(j)(2)(C) of such Act (42 U.S.C. 405(j)(2)(C)) is amended by adding at the end the following new clause:

“(v) In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability, when selecting such individual's representative payee, preference shall be given to—

“(I) a community-based nonprofit social service agency licensed or bonded by the State,

“(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

“(III) a State or local government agency with fiduciary responsibilities, or

“(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,

unless the Secretary determines that selection of a family member would be appropriate.”

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) **ALLOWABLE FEES.**—Section 205(j)(4)(A) of such Act (42 U.S.C. 405(j)(4)) is amended—

(I) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(II) by inserting “(i)” after “(4)(A)”;

(III) by striking subclause (II) (as redesignated by subclause (I) of this clause) and inserting the following:

“(II) \$25.00 per month (\$50.00 per month in any case in which the individual is entitled to benefits based on disability and alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability).”;

(IV) by inserting, after and below subclause

(II) (as amended), the following new sentence:

“The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.”; and

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

“(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom all past-due benefits have not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).”.

(ii) **INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.**—Section 205(j)(4)(B) of such Act (42 U.S.C. 405(j)(4)(B)) is amended—

(I) by inserting “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any”;

(II) by striking “representative payee and which,” and inserting “representative payee, if such agency,”;

(III) by striking “, and” at the end of clause (ii) and inserting a period; and

(IV) by striking clause (iii).

(iii) **RETROACTIVE REPEAL OF SUNSET.**—Effective July 1, 1994, section 205(j)(4) of such Act (42 U.S.C. 405(j)(4)) is amended by striking subparagraph (D).

(C) **DEFINITION.**—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

“(7) For purposes of this subsection, the term ‘benefit based on disability’ of an individual means a disability insurance benefit of such individual under section 223 or a child’s, widow’s, or widow-

er's insurance benefit of such individual under section 202 based on such individual's disability."

42 USC 405
note.

(D) EFFECTIVE DATE.—Except as provided in subparagraph (B)(iii), the amendments made by this paragraph shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) NONPAYMENT OR TERMINATION OF BENEFITS.—

(A) IN GENERAL.—Section 225 of such Act (42 U.S.C. 425) is amended—

(i) by striking the heading and inserting the following:

"ADDITIONAL RULES RELATING TO BENEFITS BASED ON DISABILITY

"Suspension of Benefits";

(ii) by inserting before subsection (b) the following new heading:

"Continued Payments During Rehabilitation Program";

and

(iii) by adding at the end the following new subsection:

"Nonpayment or Termination of Benefits Where Entitlement Involves Alcoholism or Drug Addiction

"(c)(1)(A) In the case of any individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is under a disability, such individual shall comply with the provisions of this subsection. In any case in which an individual is required to comply with the provisions of this subsection, the Secretary shall include, in such individual's notification of entitlement, a notice informing such individual of such requirement.

"(B) Notwithstanding any other provision of this title, if an individual who is required under subparagraph (A) to comply with the provisions of this subsection is determined by the Secretary not to be in compliance with the provisions of this subsection, such individual's benefits based on disability shall be suspended for a period—

"(i) commencing with the first month following the month in which such individual is notified by the Secretary of the determination of noncompliance and that the individual's benefits will be suspended, and

"(ii) ending with the month preceding the first month, after the determination of noncompliance, in which such individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in paragraph (3).

"(2)(A) An individual described in paragraph (1) is in compliance with the requirements of this subsection for a month if in such month—

"(i) such individual undergoes substance abuse treatment which is appropriate for such individual's condition diagnosed as alcoholism or drug addiction and for the stage of such individual's rehabilitation and which is conducted at an institu-

tion or facility approved for purposes of this subsection by the Secretary, and

“(ii) such individual complies in such month with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under paragraph (5).

“(B) An individual described in paragraph (1) may be determined as failing to comply with the requirements of this subsection for a month only if treatment meeting the requirements of subparagraph (A)(i) is available for that month, as determined pursuant to regulations of the Secretary.

“(3) The applicable period specified in this paragraph is—

“(A) 2 consecutive months, in the case of a first determination that an individual is not in compliance with the requirements of this subsection,

“(B) 3 consecutive months, in the case of the second such determination with respect to the individual, or

“(C) 6 consecutive months, in the case of the third or subsequent such determination with respect to the individual.

“(4) In any case in which an individual's benefit is suspended for a period of 12 consecutive months for failure to comply with treatment described in paragraph (2) of this subsection, the month following such period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement.

“(5)(A) The Secretary shall provide for the monitoring and testing of individuals who are receiving benefits under this title and who as a condition of payment of such benefits are required to be undergoing treatment under paragraph (1) and complying with the terms, conditions, and requirements thereof as described in paragraph (2)(A), in order to assure such compliance.

“(B) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations—

“(i) defining appropriate treatment for alcoholics and drug addicts who are subject to appropriate substance abuse treatment required under this subsection, and

“(ii) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.

“(C)(i) For purposes of carrying out the requirements of subparagraphs (A) and (B), the Secretary shall provide for the establishment of one or more referral and monitoring agencies for each State.

“(ii) Each referral and monitoring agency for a State shall—

“(I) identify appropriate placements, for individuals residing in such State who are entitled to benefits based on disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary's determination that they are under a disability, where they may obtain treatment described in paragraph (2)(A),

“(II) refer such individuals to such placements for such treatment, and

“(III) monitor compliance with the requirements of paragraph (2)(A) by individuals who are referred by the agency to such placements and promptly report failures to comply to the Secretary.

Regulations.

“(D) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund such sums as are necessary to carry out the requirements of this paragraph for referral, monitoring, and testing.

“(6)(A) In the case of any individual who is entitled to a benefit based on disability for any month, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability, payment of any past-due monthly insurance benefits under this title to which such individual is entitled shall be made in any month only to the extent that the sum of—

“(i) the amount of such past-due benefit paid in such month,

and

“(ii) the amount of any benefit for the preceding month under such current entitlement which is payable in such month, does not exceed, subject to subparagraph (B), twice the amount of such individual’s benefit for the preceding month (determined without applying any reductions or deductions under this title).

“(B)(i) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this title but to whom any amount of past-due benefits has not been paid, for purposes of subparagraph (A), such individual’s monthly insurance benefit for such individual’s last month of entitlement shall be treated as such individual’s benefit for the preceding month.

“(ii) For the first month in which an individual’s past-due benefits referred to in subparagraph (A) are paid, the amount of the limitation provided in subparagraph (A) shall be increased by the amount of any debts of such individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for such individual.

“(C) Upon the death of an individual to whom payment of past-due benefits has been limited under subparagraph (A), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 204.

“(D) In the case of an individual who would be entitled to benefits based on disability but for termination of such benefits under paragraph (4) or (7), such individual shall be entitled to payment of past-due benefits under this paragraph as if such individual continued to be entitled to such terminated benefits.

“(7)(A) Subject to subparagraph (B), in the case of any individual entitled to benefits based on disability, if—

“(i) alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that such individual is under a disability, and

“(ii) as of the end of the 36-month period beginning with such individual’s first month of entitlement, such individual would not otherwise be disabled but for alcoholism or drug addiction,

the month following such 36-month period shall be deemed, for purposes of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202 (as applicable), the termination month with respect to such entitlement. Such individual whose entitlement is terminated under this paragraph may not be entitled to benefits based on disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction is a contrib-

uting factor material to the Secretary's determination that such individual is under a disability.

"(B) In determining whether the 36-month period referred to in subparagraph (A) has elapsed—

"(i) a month shall not be taken into account unless the Secretary determines, under regulations of the Secretary, that treatment required under this subsection is available to the individual for the month, and

"(ii) any month for which a suspension is in effect for the individual under paragraph (1)(B) shall not be taken into account.

"(8) Monthly insurance benefits under this title which would be payable to any individual (other than the disabled individual to whom benefits are not payable by reason of this subsection) on the basis of the wages and self-employment income of such disabled individual but for the provisions of paragraph (1), (4), or (7) shall be payable as though such paragraph did not apply.

"(9) For purposes of this subsection, the term 'benefit based on disability' of an individual means a disability insurance benefit of such individual under section 223 or a child's, widow's, or widower's insurance benefit of such individual under section 202 based on the disability of such individual."

(B) REPORT.—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary's activities under paragraph (5) of section 225(c) of the Social Security Act (as amended by subparagraph (A)). Such report shall include the number and percentage of individuals referred to in such paragraph who have not received regular drug testing since the effective date of such paragraph.

(C) SUNSET OF 36-MONTH RULE.—Section 225(c)(7) of the Social Security Act (added by subparagraph (A)) shall cease to be effective with respect to benefits for months after September 2004.

42 USC 425
note.

(D) PRESERVATION OF MEDICARE BENEFITS.—

(i) Section 226 of such Act (42 U.S.C. 426) is amended by adding at the end the following:

"(i) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month."

(ii) Section 226A of such Act (42 U.S.C. 426A) is amended by adding at the end the following:

42 USC 426-1.

"(c) For purposes of this section, each person whose monthly insurance benefit for any month is terminated or is otherwise not payable solely by reason of paragraph (1) or (7) of section 225(c) shall be treated as entitled to such benefit for such month."

(E) EFFECTIVE DATE.—

42 USC 425
note.

(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to benefits based on disability (as defined in section 225(c)(9) of the Social Security Act, added by this section) which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary

Regulations.

of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after the date of the enactment of this Act.

(ii) REFERRAL AND MONITORING AGENCIES.—Section 225(c)(5) of the Social Security Act (added by this subsection) shall take effect 180 days after the date of the enactment of this Act.

(iii) TERMINATION AFTER 36 MONTHS.—Section 225(c)(7) of the Social Security Act (added by this subsection) shall apply with respect to benefits based on disability (as so defined) for months beginning after 180 days after the date of the enactment of this Act.

(F) TRANSITION RULES FOR CURRENT BENEFICIARIES.—In any case in which an individual is entitled to benefits based on disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability—

(i) TREATMENT REQUIREMENT.—Paragraphs (1) through (4) of section 225(c) of the Social Security Act (added by this subsection) shall apply only with respect to benefits paid in months after the month in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination and that such individual is therefore required to comply with the provisions of section 225(c) of such Act.

(ii) TERMINATION AFTER 36 MONTHS.—

(I) IN GENERAL.—For purposes of section 225(c)(7) of the Social Security Act (added by this subsection), the first month of entitlement beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of entitlement to such benefits.

(II) CONCURRENT BENEFICIARIES CURRENTLY UNDER TREATMENT.—In any case in which the individual is also entitled to benefits under title XVI and, as of 180 days after the date of the enactment of this Act, such individual is undergoing treatment required under section 1611(e)(3) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), the Secretary of Health and Human Services shall notify such individual of the provisions of section 225(c)(7) of the Social Security Act (added by this subsection) not later than 180 days after the date of the enactment of this Act.

(III) CONCURRENT BENEFICIARIES NOT CURRENTLY UNDER TREATMENT.—In any case in which the individual is also entitled to benefits under title XVI but, as of 180 days after the date of the enactment of this Act, such individual is not undergoing treatment described in subclause (II),

section 225(c)(7) (added by this subsection) shall apply only with respect to benefits for months after the month in which treatment required under section 1611(e)(3) of the Social Security Act (as amended by subsection (b)) is available, as determined under regulations of the Secretary of Health and Human Services, and the Secretary notifies such individual of the availability of such treatment and describes in such notification the provisions of section 225(c)(7) of the Social Security Act (added by this subsection).

(4) IRRELEVANCE OF LEGALITY OF SERVICES PERFORMED IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY.—

(A) IN GENERAL.—Section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended—

(i) by inserting “(A)” after “(4)”; and

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

“(B) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual’s ability to engage in substantial gainful activity, the Secretary shall apply the criteria described in subparagraph (A) with respect to services performed by any individual without regard to the legality of such services.”.

(B) CONFORMING AMENDMENT RELATING TO TRIAL WORK.—Section 222(c)(2) of such Act (42 U.S.C. 422(c)(2)) is amended by inserting “(whether legal or illegal)” after “activity”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

42 USC 422
note.

(b) AMENDMENTS RELATING TO SUPPLEMENTAL SECURITY INCOME BENEFITS UNDER TITLE XVI OF THE SOCIAL SECURITY ACT.—

(1) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.—

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

(i) in clause (ii)—

(I) by inserting “(I)” after “(ii)”; and

(II) by striking “or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A),”; and

(III) by adding after and below the end the following:

“(II) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual under this title. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Secretary shall include, in the individual’s notification of such eligibility, a notice that alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled and that the Secretary is therefore

required to pay the individual's benefits to a representative payee.”;
and

(ii) in clause (iii), by striking “to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse” and inserting “to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this title would be served thereby, to the individual or eligible spouse”.

(B) CONFORMING AMENDMENT.—Section 1631(a)(2)(B)(viii)(II) of such Act (42 U.S.C. 1383(a)(2)(B)(viii)(II)) is amended by striking “15 years” and all that follows and inserting “of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled) is eligible for benefits under this title by reason of disability.”.

42 USC 1383
note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply with respect to months beginning after 180 days after the date of the enactment of this Act.

(2) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.—

(A) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)), as amended by paragraph (1)(B) of this subsection, is amended—

(i) by redesignating clauses (vii) through (xii) as clauses (viii) through (xiii), respectively;

(ii) by inserting after clause (vi) the following:
“(vii) In the case of an individual eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, when selecting such individual's representative payee, preference shall be given to—

“(I) a community-based nonprofit social service agency licensed or bonded by the State;

“(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

“(III) a State or local government agency with fiduciary responsibilities; or

“(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Secretary deems it appropriate,
unless the Secretary determines that selection of a family member would be appropriate.”;

(iii) in clause (viii) (as so redesignated), by striking “clause (viii)” and inserting “clause (ix)”;

(iv) in clause (ix) (as so redesignated), by striking “(vii)” and inserting “(viii)”;

(v) in clause (xiii) (as so redesignated)—

(I) by striking “(xi)” and inserting “(xii)”;

(II) by striking “(x)” and inserting “(xi)”.

(B) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.—

(i) **ALLOWABLE FEES.**—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended—

(I) in clause (i)—

(aa) by striking subclause (II) and inserting the following:

“(II) \$25.00 per month (\$50.00 per month in any case in which an individual is eligible for benefits under this title by reason of disability and alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled).”; and

(bb) by inserting after the 1st sentence the following:

“The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.”; and

(II) by adding at the end the following:

“(v) In the case of an individual who is no longer eligible for benefits under this title but to whom any amount of past-due benefits under this title has not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).”.

(ii) **INCLUSION OF STATE AND LOCAL AGENCIES AS QUALIFIED ORGANIZATIONS.**—Section 1631(a)(2)(D)(ii) of such Act (42 U.S.C. 1383(a)(2)(D)(ii)) is amended—

(I) by inserting “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any”;

(II) by inserting a comma after “service agency”;

(III) by adding “and” at the end of subclause (I); and

(IV) in subclause (II)—

(aa) by adding “and” at the end of item (aa);

(bb) by striking “; and” at the end of item (bb) and inserting a period; and

(cc) by striking item (cc).

(iii) **RETROACTIVE REPEAL OF SUNSET.**—

(I) **REPEAL.**—Effective July 1, 1994, section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by striking clause (iv).

(II) **CONFORMING AMENDMENT.**—Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended by redesignating clause (v) (as added by clause (i)(II) of this subparagraph) as clause (iv).

(C) **EFFECTIVE DATE.**—Except as provided in subparagraph (B)(iii)(I), the amendments made by this paragraph

42 USC 1383
note.

shall apply with respect to months beginning after 90 days after the date of the enactment of this Act.

(3) NONPAYMENT OR TERMINATION OF BENEFITS.—

(A) IN GENERAL.—Section 1611(e)(3)(A) of such Act (42 U.S.C. 1382(e)(3)(A)) is amended to read as follows:

“(A)(i)(I) In the case of any individual eligible for benefits under this title solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, the individual shall comply with the provisions of this subparagraph. In any case in which an individual is required to comply with the provisions of this subparagraph, the Secretary shall include in the individual’s notification of such eligibility a notice informing the individual of such requirement.

“(II) Notwithstanding any other provision of this title, if an individual who is required under subclause (I) to comply with the requirements of this subparagraph is determined by the Secretary not to be in compliance with the provisions of this subparagraph, the individual’s benefits under this title by reason of disability shall be suspended for a period—

“(aa) commencing with the first month following the month in which the individual is notified by the Secretary of the determination of noncompliance and that the individual’s benefits will be suspended; and

“(bb) ending with the month preceding the first month, after the determination of noncompliance, in which the individual demonstrates that he or she has reestablished and maintained compliance with such provisions for the applicable period specified in clause (iii).

“(ii)(I) An individual described in clause (i) is in compliance with the requirements of this subparagraph for a month if in such month—

“(aa) the individual undergoes substance abuse treatment, which is appropriate for the individual’s condition diagnosed as alcoholism or drug addiction and for the stage of the individual’s rehabilitation and which is conducted at an institution or facility approved for purposes of this subparagraph by the Secretary; and

“(bb) the individual complies in such month with the terms, conditions, and requirements of the treatment and with requirements imposed by the Secretary under this paragraph.

“(II) An individual described in clause (i) may be determined as failing to comply with the requirements of this subparagraph for a month only if treatment meeting the requirements of subclause (I)(aa) is available for the month, as determined pursuant to regulations of the Secretary.

“(iii) The applicable period specified in this clause is—

“(I) 2 consecutive months, in the case of a 1st determination that an individual is not in compliance with the requirements of this subparagraph;

“(II) 3 consecutive months, in the case of the 2nd such determination with respect to the individual; or

“(III) 6 consecutive months, in the case of the 3rd or subsequent such determination with respect to the individual.

“(iv) An individual who is not in compliance with this paragraph for 12 consecutive months shall not be eligible for supplemental security income benefits under this title. The preceding sentence

shall not be construed to prevent the individual from reapplying and becoming eligible for such benefits.

“(v)(I) In the case of any individual eligible for benefits under this title by reason of disability, if—

“(aa) alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled; and

“(bb) as of the end of the 36-month period beginning with the 1st month for which such benefits by reason of disability are payable to the individual, the individual would not otherwise be disabled but for alcoholism or drug addiction, the individual shall not be eligible for such benefits by reason of disability for any month following such 36-month period if, in such following month, alcoholism or drug addiction would be a contributing factor material to the Secretary’s determination that the individual is disabled, notwithstanding section 1619(a).

“(II) An individual whose entitlement to benefits under title II based on disability has been terminated by reason of section 225(c)(7) shall not be eligible for benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, for any month after the individual’s termination month (within the meaning of section 223(a)(1) or subsection (d)(1)(G)(i), (e)(1), or (f)(1) of section 202, as applicable) with respect to such benefits.

“(III) Any month for which a suspension is in effect for the individual under clause (i)(II) shall not be taken into account in determining whether any 36-month period referred to in this clause has elapsed.

“(vi)(I) In the case of any individual who is eligible for benefits under this title for any month solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled, payment of any benefits under this title the payment of which is past due shall be made in any month only to the extent that the sum of—

“(aa) the amount of the past-due benefit paid in the month; and

“(bb) the amount of any benefit under this title which is payable to the individual for the month, does not exceed twice the maximum benefit payable under this title to an eligible individual for the preceding month.

“(II) For the first month in which an individual’s past-due benefits referred to in subclause (I) are paid, the amount of the limitation provided in subclause (I) shall be increased by the amount of any debts of the individual related to housing which are outstanding as of the end of the preceding month and which are resulting in a high risk of homelessness for the individual.

“(III) Upon the death of an individual to whom payment of past-due benefits has been limited under subclause (I), any amount of such past-due benefits remaining unpaid shall be treated as an underpayment for purposes of section 1631(b)(1)(A).

“(IV) As used in this clause, the term ‘benefits under this title’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a), and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

“(V) In the case of an individual who would be eligible for benefits under this title by reason of disability but for termination of such benefits under clause (iv) or (v), the individual shall be eligible for payment of past-due benefits under this clause as if the individual continued to be eligible for such terminated benefits.

“(VI) Subclause (I) shall not apply to payments under section 1631(g).”.

(B) REFERRAL, MONITORING, AND TREATMENT.—

(i) **IN GENERAL.**—Section 1611(e)(3)(B) of such Act (42 U.S.C. 1382(e)(3)(B)) is amended—

(I) by inserting “(i)” after “(B)”;

(II) by striking the 2nd sentence; and

(III) by adding after and below the end the following:

Regulations.

“(ii) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations—

“(I) defining appropriate treatment for alcoholics and drug addicts who are subject to required appropriate substance abuse treatment under this subparagraph; and

“(II) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress expected to be achieved by participants in such programs.

“(iii)(I) For purposes of carrying out the requirements of clauses (i) and (ii), the Secretary shall provide for the establishment of 1 or more referral and monitoring agencies for each State.

“(II) Each referral and monitoring agency for a State shall—

“(aa) identify appropriate placements, for individuals residing in the State who are eligible for benefits under this title by reason of disability and with respect to whom alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that they are disabled, where they may obtain treatment described in subparagraph (A)(ii)(I);

“(bb) refer such individuals to such placements for such treatment; and

“(cc) monitor compliance with the requirements of subparagraph (A) by individuals who are referred by the agency to such placements, and promptly report to the Secretary any failure to comply with such requirements.”.

42 USC 1382
note.

(ii) **REPORT.**—Not later than December 31, 1996, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full and complete report on the Secretary’s activities under section 1611(e)(3)(B) of the Social Security Act. The report shall include the number and percentage of individuals referred to in such paragraph who have not received regular drug testing since the effective date of the amendments made by clause (i) of this subparagraph.

42 USC 1382
note.

(C) SUNSET OF 36-MONTH RULE.—Section 1611(e)(3)(A)(v) of the Social Security Act (added by subparagraph (A) of this paragraph) shall cease to be effective with respect to benefits for months after September 2004.

42 USC 1383c.

(D) PRESERVATION OF MEDICAID BENEFITS.—Section 1634 of such Act (42 U.S.C. 13283c) is amended by adding at the end the following:

“(e) Each person to whom benefits under this title by reason of disability are not payable for any month solely by reason of clause (i) or (v) of section 1611(e)(3)(A) shall be treated, for purposes of title XIX, as receiving benefits under this title for the month.”.

(E) EFFECTIVE DATE.—

42 USC 1382
note.

(i) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this paragraph shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after such date of enactment.

(ii) REFERRAL AND MONITORING AGENCIES.—The amendments made by subparagraph (B) shall take effect 180 days after the date of the enactment of this Act.

(iii) TERMINATION AFTER 36 MONTHS.—Clause (v) of section 1611(e)(3)(A) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act by reason of disability for months beginning after 180 days after the date of the enactment of this Act.

(F) TRANSITION RULES FOR CURRENT BENEFICIARIES.—

42 USC 1382
note.

In any case in which an individual is eligible for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for purposes of section 1611(e)(3)(A)(v) of the Social Security Act (added by the amendment made by subparagraph (A) of this paragraph)—

(i) the first month of such eligibility beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of such eligibility; and

(ii) the Secretary shall notify the individual of the requirements of the amendments made by this paragraph no later than 180 days after the date of the enactment of this Act.

(4) IRRELEVANCE OF LEGALITY OF SUBSTANTIAL GAINFUL ACTIVITY.—

(A) IN GENERAL.—Section 1614(a)(3)(D) of such Act (42 U.S.C. 1382c(a)(3)(D)) is amended by adding at the end the following: “The Secretary shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.”.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

42 USC 1382c
note.

42 USC 425
note.

(c) **DEMONSTRATION PROJECTS.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to explore innovative referral, monitoring, and treatment approaches with respect to—

(A) individuals who are entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability under title II of the Social Security Act, and

(B) individuals who are eligible for supplemental security income benefits under title XVI of such Act based solely on disability,

in cases in which alcoholism or drug addiction is a contributing factor material to the Secretary's determination that individuals are under a disability. The Secretary may include in such demonstration projects individuals who are not described in either subparagraph (A) or subparagraph (B) if the inclusion of such individuals is necessary to determine the efficacy of various monitoring, referral, and treatment approaches for individuals described in subparagraph (A) or (B).

(2) **SCOPE.**—The demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative approaches under consideration while giving assurance that the results derived from the projects will obtain generally in the operation of the programs involved without committing such programs to the adoption of any particular system either locally or nationally.

(3) **FINAL REPORT.**—The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than December 31, 1997, a final report on the demonstration projects carried out under this subsection, together with any related data and materials which the Secretary may consider appropriate. The authority under this section shall terminate upon the transmittal of such final report.

42 USC 1382
note.

SEC. 202. COMMISSION ON CHILDHOOD DISABILITY.

(a) **ESTABLISHMENT OF COMMISSION.**—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (in this section referred to as the "Commission").

(b) **APPOINTMENT OF MEMBERS.**—(1) The Secretary shall appoint not less than 9 but not more than 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children;

(ii) the study of congenital, genetic, or perinatal disorders in children; or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology;

(ii) education and rehabilitation;

(iii) law;

(iv) the administration of disability programs; and
(v) social insurance (including health insurance); and
(C) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed by January 1, 1995, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chair of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee 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 employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage individuals skilled in medical and other aspects of childhood disability to provide such technical assistance as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of “disability” under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under such title.

(2) The study described in paragraph (1) shall include issues of—

(A) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI of the Social Security Act, might appropriately be met through expansion of Federal health assistance programs;

(B) the feasibility of providing benefits to children through noncash means, including but not limited to vouchers, debit cards, and electronic benefit transfer systems;

(C) the extent to which the Social Security Administration can involve private organizations in an effort to increase the provision of social services, education, and vocational instruction with the aim of promoting independence and the ability to engage in substantial gainful activity;

(D) alternative ways and providing retroactive supplemental security income benefits to disabled children, including the desirability and feasibility of conserving some portion of such benefits to promote the long-term well-being of such children;

(E) the desirability and methods of increasing the extent to which benefits are used in the effort to assist disabled children in achieving independence and engaging in substantial gainful activity;

(F) the effects of the supplemental security income program on disabled children and their families; and

(G) such other issues that the Secretary determines to be appropriate.

(f) **REPORT.**—Not later than November 30, 1995, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

SEC. 203. REGULATIONS REGARDING COMPLETION OF PLANS FOR ACHIEVING SELF-SUPPORT.

(a) **IN GENERAL.**—Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

“(d) The Secretary shall establish by regulation criteria for time limits and other criteria related to individuals’ plans for achieving self-support, that take into account—

“(1) the length of time that the individual will need to achieve the individual’s employment goal (within such reasonable period as the Secretary may establish); and

“(2) other factors determined by the Secretary to be appropriate.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1, 1995.

SEC. 204. SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD.

(a) **IN GENERAL.**—Section 1611(f) of the Social Security Act (42 U.S.C. 1382(f)) is amended—

(1) by inserting “(1)” after “(f)”; and

(2) by adding after and below the end the following:

“(2) For a period of not more than 1 year, the first sentence of paragraph (1) shall not apply to any individual who—

“(A) was eligible to receive a benefit under this title for the month immediately preceding the first month during all of which the individual was outside the United States; and

“(B) demonstrates to the satisfaction of the Secretary that the absence of the individual from the United States will be—

“(i) for not more than 1 year; and

“(ii) for the purpose of conducting studies as part of an educational program that is—

“(I) designed to substantially enhance the ability of the individual to engage in gainful employment;

“(II) sponsored by a school, college, or university in the United States; and

“(III) not available to the individual in the United States.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on January 1, 1995.

42 USC 1382
note.

SEC. 205. DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED ELIGIBILITY FOR WORK INCENTIVES.

(a) **IN GENERAL.**—Section 1619(b)(1)(B) of the Social Security Act (42 U.S.C. 1382h(b)(1)(B)) is amended by inserting “and increases pursuant to section 215(i) in the level of monthly insurance benefits to which the individual is entitled under title II that occur while such individual is considered to be receiving supplemental security income benefits by reason of this subsection” after “earnings”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to eligibility determinations for months after December 1994.

42 USC 1382h
note.

SEC. 206. EXPANSION OF THE AUTHORITY OF THE SOCIAL SECURITY ADMINISTRATION TO PREVENT, DETECT, AND TERMINATE FRAUDULENT CLAIMS FOR OASDI AND SSI BENEFITS.

(a) **PREVENTION OF FRAUD BY TRANSLATORS OF FOREIGN LANGUAGES.**—

(1) **OASDI PROGRAMS.**—Section 205(c) of the Social Security Act (42 U.S.C. 405(c)) is amended—

(A) by redesignating paragraph (8) as paragraph (9); and

(B) by inserting after paragraph (7) the following:

“(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of monthly insurance benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

“(A) certifies that the translation is accurate; and

“(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.”.

(2) **SSI PROGRAM.**—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

“(4) A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of benefits under this title shall not be regarded as reliable for any purpose under this title unless the third party, under penalty of perjury—

“(A) certifies that the translation is accurate; and

“(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to translations made on or after October 1, 1994.

42 USC 405
note.

(b) **CIVIL MONETARY PENALTIES, ASSESSMENTS, AND EXCLUSIONS FOR TITLES II AND XVI.**—

(1) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following:

42 USC 1320a-8. **“SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLES II AND XVI.**

“(a)(1) Any person (including an organization, agency, or other entity) who 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—

“(A) monthly insurance benefits under title II, or

“(B) benefits or payments under title XVI,

that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth 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 statement or representation. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation. In addition, the Secretary may make a determination in the same proceeding to exclude, as provided in section 1128, such a person who is a medical provider or physician from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program permanently or for such period as the Secretary determines.

“(2) For purposes of this section, a material fact is one which the Secretary may consider in evaluating whether an applicant is entitled to benefits under title II or eligible for benefits or payments under title XVI.

“(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty or assessment, or whether to recommend exclusion under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by the Secretary and the Attorney General. The Secretary may not initiate an action under this section with respect to any violation described in subsection (a) later than 6 years after the date the violation was committed. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

“(2) The Secretary shall not make a determination adverse to any person under this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

“(3) In a proceeding under this section which—

“(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime charging fraud or false statements; and

“(B) involves the same transaction as in the criminal action; the person is estopped from denying the essential elements of the criminal offense.

“(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, for failing to defend an action, or for such other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

“(A) in the case of refusal to provide or permit discovery, drawing negative factual inference or treating such refusal as an admission by deeming the matter, or certain facts, to be established;

“(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

“(C) striking pleadings, in whole or in part;

“(D) staying the proceedings;

“(E) dismissal of the action;

“(F) entering a default judgment;

“(G) ordering the party or attorney to pay attorneys’ fees and other costs caused by the failure or misconduct; and

“(H) refusing to consider any motion or other action which is not filed in a timely manner.

“(c) In determining pursuant to subsection (a) the amount or scope of any penalty or assessment, or whether to recommend an exclusion, the Secretary shall take into account—

“(1) the nature of the statements and representations referred to in subsection (a) and the circumstances under which they occurred;

“(2) the degree of culpability, history of prior offenses, and financial condition of the person committing the offense; and

“(3) such other matters as justice may require.

“(d)(1) Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the statement or representation referred to in subsection (a) was made, by filing in such court (within 60 days following the date the person is notified of the Secretary’s determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

“(2) The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive in the review described in paragraph (1). If any party shall apply to the court for leave to adduce addi-

tional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify such findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and the Secretary shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive, and the Secretary's recommendations, if any, for the modification or setting aside of the Secretary's original order.

"(3) Upon the filing of the record and the Secretary's original or modified order with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered—

"(A) in a civil action in the name of the United States brought in United States district court for the district where the statement or representation referred to in subsection (a) was made, or where the person resides, as determined by the Secretary;

"(B) by means of reduction in tax refunds to which the person is entitled, based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code;

"(C)(i) by decrease of any payment of monthly insurance benefits under title II, notwithstanding section 207, or

"(ii) by decrease of any payment under title XVI for which the person is eligible, notwithstanding section 207, as made applicable to title XVI by reason of section 1631(d)(1);

"(D) by authorities provided under the Debt Collection Act of 1982, as amended, to the extent applicable to debts arising under the Social Security Act;

"(E) by deduction of the amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, from any sum then or later owing by the United States to the person against whom the penalty or assessment has been assessed; or

"(F) by any combination of the foregoing.

"(2) Amounts recovered under this section shall be recovered by the Secretary and shall be disposed of as follows:

"(A) In the case of amounts recovered arising out of a determination relating to title II, the amounts 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 Secretary, and such amounts shall be deposited by the Managing Trustee into such Trust Fund.

"(B) In the case of amounts recovered arising out of a determination relating to title XVI, the amounts shall be depos-

ited by the Secretary into the general fund of the Treasury as miscellaneous receipts.

“(f) A determination pursuant to subsection (a) by the Secretary to impose a penalty or assessment, or to recommend an exclusion shall be final upon the expiration of the 60-day period referred to in subsection (d). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

“(g) Whenever the Secretary’s determination to impose a penalty or assessment under this section with respect to a medical provider or physician becomes final, the provisions of section 1128A(h) shall apply.

“(h) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty and assessment if any such penalty were to be imposed or to seek other appropriate relief.

“(i)(1) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General for purposes of any investigation under this section.

“(2) The Secretary may delegate authority granted under this section to the Inspector General.

“(j) For purposes of this section, the term ‘State agency’ shall have the same meaning as in section 1128A(i)(1).

“(k) A principal is liable for penalties and assessments under subsection (a), and for an exclusion under section 1128, for the actions of the principal’s agent acting within the scope of the agency.”

(2) CONFORMING AMENDMENTS.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended—

(A) in subsection (b)(7), by striking “or section 1128B” and inserting “, 1128B, or 1129”;

(B) in subsection (b)(8)(B)(ii), by inserting “or 1129” after “section 1128A”; and

(C) in subsection (f)(3), by inserting “, 1129,” after “sections 1128A”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994.

42 USC 1320a-7
note.

(c) SSI FRAUD CONSIDERED A FELONY.—

(1) IN GENERAL.—Section 1632(a) of the Social Security Act (42 U.S.C. 1383a(a)) is amended by striking “shall” the 1st place such term appears and all that follows and inserting “shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.”

(2) CONFORMING AMENDMENT.—Section 1632(b) of such Act (42 U.S.C. 1383a(b)) is amended to read as follows:

“(b)(1) If a person or entity violates subsection (a) in the person’s or entity’s role as, or in applying to become, a representative payee under section 1631(a)(2) on behalf of another individual (other than the person’s eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.

“(2) Any person or entity convicted of a violation of subsection (a) of this section or of section 208 may not be certified as a representative payee under section 1631(a)(2).”

42 USC 1383a
note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conduct occurring on or after October 1, 1994.

(d) AUTHORITY TO REDETERMINE ELIGIBILITY IF FRAUD IS INVOLVED, AND TO TERMINATE BENEFITS IF THERE IS INSUFFICIENT RELIABLE EVIDENCE.—

(1) OASDI PROGRAMS.—Section 205 of the Social Security Act (42 U.S.C. 405) is amended by adding at the end the following:

“(u)(1)(A) The Secretary shall immediately redetermine the entitlement of individuals to monthly insurance benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

“(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

“(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if—

“(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

“(B) information that is material to the determination is knowingly concealed.

“(3) If, after redetermining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Secretary determines that there is insufficient evidence to support such entitlement, the Secretary may terminate such entitlement and may treat benefits paid on the basis of such insufficient evidence as overpayments.”

(2) SSI PROGRAM.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by adding at the end the following:

“(6)(A)(i) The Secretary shall immediately redetermine the eligibility of an individual for benefits under this title if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Secretary with regard to recipients in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud

“(ii) When redetermining the eligibility, or making an initial determination of eligibility, of an individual for benefits under this title, the Secretary shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

“(B) For purposes of subparagraph (A), similar fault is involved with respect to a determination if—

“(i) an incorrect or incomplete statement that is material to the determination is knowingly made; or

“(ii) information that is material to the determination is knowingly concealed.

“(C) If, after redetermining the eligibility of an individual for benefits under this title, the Secretary determines that there is insufficient evidence to support such eligibility, the Secretary may terminate such eligibility and may treat benefits paid on the basis of such insufficient evidence as overpayments.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1994, and shall apply to determinations made before, on, or after such date.

42 USC 405
note.

(e) AVAILABILITY OF RECIPIENT IDENTIFYING INFORMATION FROM THE INSPECTOR GENERAL.—

(1) IN GENERAL.—Section 1129 of the Social Security Act (added by subsection (b) of this section) is amended by adding at the end the following:

“(1) As soon as the Inspector General, Department of Health and Human Services, has reason to believe that fraud was involved in the application of an individual for monthly insurance benefits under title II or for benefits under title XVI, the Inspector General shall make available to the Secretary information identifying the individual, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that making the information so available in a particular investigation or redetermining the eligibility of the individual for such benefits would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1994.

42 USC 1320a-8
note.

(f) AUTHORITY TO USE AVAILABLE PREADMISSION IMMIGRANT AND REFUGEE MEDICAL INFORMATION.—

(1) IN GENERAL.—Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) as amended by subsection (d)(2) of this section, is amended by adding at the end the following:

“(7)(A) The Secretary shall request the Immigration and Naturalization Service or the Centers for Disease Control to provide the Secretary with whatever medical information, identification information, and employment history either such entity has with respect to any alien who has applied for benefits under title XVI to the extent that the information is relevant to any determination relating to eligibility for such benefits under title XVI.

“(B) Subparagraph (A) shall not be construed to prevent the Secretary from adjudicating the case before receiving such information.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 1994.

42 USC 1383
note.

42 USC 405
note.

(g) **ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI CASES.**—The Secretary of Health and Human Services shall annually 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 extent to which the Secretary has exercised his authority to review cases of entitlement to monthly insurance benefits under title II of the Social Security Act and supplemental security income cases under title XVI of such Act, and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

42 USC 1382
note.

SEC. 207. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE.

(a) **DISABILITY REVIEW REQUIREMENT.**—

(1) **IN GENERAL.**—The applicable State agency or the Secretary of Health and Human Services (as may be appropriate) shall redetermine the eligibility of a qualified individual for supplemental security income benefits under title XVI of the Social Security Act by reason of disability, by applying the criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age.

(2) **WHEN CONDUCTED.**—The redetermination required by paragraph (1) with respect to a qualified individual shall be conducted during the 1-year period that begins on the date the qualified individual attains 18 years of age.

(3) **MINIMUM NUMBER OF REVIEWS.**—The Secretary shall conduct redeterminations under paragraph (1) with respect to not less than $\frac{1}{3}$ of qualified individuals in each of fiscal years 1996, 1997, and 1998.

(4) **QUALIFIED INDIVIDUAL DEFINED.**—As used in this paragraph, the term “qualified individual” means a recipient of supplemental security income benefits under title XVI of the Social Security Act by reason of disability who attains 18 years of age in or after the 9th month after the month in which this Act is enacted.

(5) **SUBSTITUTE FOR A CONTINUING DISABILITY REVIEW.**—A redetermination under paragraph (1) of this subsection shall be considered a substitute for a review required under section 1614(a)(3)(G) of the Social Security Act.

(6) **SUNSET.**—Paragraph (1) shall have no force or effect after October 1, 1998.

(b) **REPORT TO THE CONGRESS.**—Not later than October 1, 1998, the Secretary of Health and Human Services 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 activities conducted under subsection (a).

42 USC 1382
note.

SEC. 208. CONTINUING DISABILITY REVIEWS.

(a) **TEMPORARY ANNUAL MINIMUM NUMBER OF REVIEWS.**—During each year of the 3-year period that begins on October 1, 1995, the Secretary of Health and Human Services shall apply section 221(i) of the Social Security Act in making disability determinations under title XVI of such Act with respect to at least 100,000 recipients of supplemental security income benefits under such title.

(b) **REPORT TO THE CONGRESS.**—Not later than October 1, 1998, the Secretary of Health and Human Services 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 activities conducted under subsection (a).

SEC. 209. EXEMPTION FROM ADJUSTMENT IN PASS-ALONG REQUIREMENTS.

(a) **IN GENERAL.**—Section 1618(b) of the Social Security Act (42 U.S.C. 1382g(b)) is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2) For purposes of determining under paragraph (1) whether a State’s expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than the State’s expenditures for such payments in the preceding 12-month period, the Secretary, in computing the State’s expenditures, shall disregard, pursuant to a 1-time election of the State, all expenditures by the State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.”.

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply with respect to increases in the level of supplemental security income benefits under title XVI of the Social Security Act whether occurring before, on, or after the date of the enactment of this Act.

42 USC 1382g
note.

TITLE III—MISCELLANEOUS PROGRAM IMPROVEMENTS

SEC. 301. ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS.

(a) **REQUIREMENT THAT OBLIGATIONS ISSUED TO THE OASDI TRUST FUNDS BE EVIDENCED BY PAPER INSTRUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES OF INDEBTEDNESS SETTING FORTH THEIR TERMS.**—Section 201(d) of the Social Security Act (42 U.S.C. 401(d)) is amended by inserting after the fifth sentence the following new sentence: “Each obligation issued for purchase by the Trust Funds under this subsection shall be evidenced by a paper instrument in the form of a bond, note, or certificate of indebtedness issued by the Secretary of the Treasury setting forth the principal amount, date of maturity, and interest rate of the obligation, and stating on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it is issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.”.

(b) **PAYMENT TO THE OASDI TRUST FUNDS FROM THE GENERAL FUND OF THE TREASURY OF INTEREST ON OBLIGATIONS, AND OF PROCEEDS FROM THE SALE OR REDEMPTION OF OBLIGATIONS, REQUIRED TO BE IN THE FORM OF CHECKS.**—Section 201(f) of such Act (42 U.S.C. 401(f)) is amended by adding at the end the following new sentence: “Payment from the general fund of the Treasury to either of the Trust Funds of any such interest or proceeds

shall be in the form of paper checks drawn on such general fund to the order of such Trust Fund.”.

42 USC 401
note.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to obligations issued, and payments made, after 60 days after the date of the enactment of this Act.

(2) **TREATMENT OF OUTSTANDING OBLIGATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as applicable, a paper instrument, in the form of a bond, note, or certificate of indebtedness, for each obligation which has been issued to the Trust Fund under section 201(d) of the Social Security Act and which is outstanding as of such date. Each such document shall set forth the principal amount, date of maturity, and interest rate of the obligation, and shall state on its face that the obligation shall be incontestable in the hands of the Trust Fund to which it was issued, that the obligation is supported by the full faith and credit of the United States, and that the United States is pledged to the payment of the obligation with respect to both principal and interest.

42 USC 902
note.

SEC. 302. GAO STUDY REGARDING TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study of telephone access to local offices of the Social Security Administration.

(b) **MATTERS TO BE STUDIED.**—In conducting the study under this section, the Comptroller General shall make an independent assessment of the Social Security Administration’s use of innovative technology (including attendant call and voice mail) to increase public telephone access to local offices of the Administration. Such study shall include—

(1) an assessment of the aggregate impact of such technology on public access to the local offices, and

(2) a separate assessment of the impact of such technology on public access to those local offices to which access was restricted on October 1, 1989.

(c) **REPORT.**—Not later than January 31, 1996, the Comptroller General shall submit a report on the results of the study conducted pursuant to this section to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 303. EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE.

(a) **LIMITATION ON MANDATORY COVERAGE OF STATE ELECTION OFFICIALS AND ELECTION WORKERS WITHOUT STATE RETIREMENT SYSTEM.**—

(1) **AMENDMENT TO SOCIAL SECURITY ACT.**—Section 210(a)(7)(F)(iv) of the Social Security Act (42 U.S.C. 410(a)(7)(F)(iv)) (as amended by section 11332(a) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January

1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(2) AMENDMENT TO FICA.—Section 3121(b)(7)(F)(iv) of the Internal Revenue Code of 1986 (as amended by section 11332(b) of the Omnibus Budget Reconciliation Act of 1990) is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(b) CONFORMING AMENDMENTS RELATING TO MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—

(1) AMENDMENT TO SOCIAL SECURITY ACT.—Section 210(p)(2)(E) of the Social Security Act (42 U.S.C. 410(p)(2)(E)) is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(2) AMENDMENT TO FICA.—Section 3121(u)(2)(B)(ii)(V) of the Internal Revenue Code of 1986 is amended by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”.

(c) AUTHORITY FOR STATES TO MODIFY COVERAGE AGREEMENTS WITH RESPECT TO ELECTION OFFICIALS AND ELECTION WORKERS.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended—

(1) by striking “on or after January 1, 1968,” and inserting “at any time”;

(2) by striking “\$100” and inserting “\$1,000 with respect to service performed during any calendar year commencing on or after January 1, 1995, ending on or before December 31, 1999, and the adjusted amount determined under subparagraph (B) for any calendar year commencing on or after January 1, 2000, with respect to service performed during such calendar year”; and

(3) by striking the last sentence and inserting the following new sentence: “Any modification of an agreement pursuant to this paragraph shall be effective with respect to services performed in and after the calendar year in which the modification is mailed or delivered by other means to the Secretary.”.

(d) INDEXATION OF EXEMPT AMOUNT.—Section 218(c)(8) of such Act (as amended by subsection (c)) is further amended—

(1) by inserting “(A)” after “(8)”; and

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

“(B) For each year after 1999, the Secretary shall adjust the amount referred to in subparagraph (A) at the same time and in the same manner as is provided under section 215(a)(1)(B)(ii) with respect to the amounts referred to in section 215(a)(1)(B)(i), except that—

“(i) for purposes of this subparagraph, 1997 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II), and

“(ii) such amount as so adjusted, if not a multiple of \$100, shall be rounded to the next higher multiple of \$100 where such amount is a multiple of \$50 and to the nearest multiple of \$100 in any other case.

The Secretary shall determine and publish in the Federal Register each adjusted amount determined under this subparagraph not later than November 1 preceding the year for which the adjustment is made.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to service performed on or after January 1, 1995.

SEC. 304. USE OF SOCIAL SECURITY NUMBERS BY STATES AND LOCAL GOVERNMENTS AND FEDERAL DISTRICT COURTS FOR JURY SELECTION PURPOSES.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i), by striking “(E)” in the matter preceding subclause (I) and inserting “(F)”;

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

(3) by inserting after subparagraph (D) the following:

“(E)(i) It is the policy of the United States that—

“(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Secretary for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

“(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

“(ii) The additional purposes described in this clause are the following:

“(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

“(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.

“(iii) To the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after that date, be null, void, and of no effect.

“(iv) For purposes of this subparagraph, the term ‘State’ has the meaning such term has in subparagraph (D).”

(b) CONFORMING AMENDMENT.—Section 1140(a)(2) of such Act (42 U.S.C. 1320b-10(a)(2)) is amended by striking “205(c)(2)(E)” and inserting “205(c)(2)(F)”.

Federal Register, publication.

42 USC 410 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act. 42 USC 405 note.

SEC. 305. AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICE OFFICERS AND FIRE-FIGHTERS UNDER EXISTING COVERAGE AGREEMENTS.

(a) **IN GENERAL.**—Section 218(l) of the Social Security Act (42 U.S.C. 418(l)) is amended—

(1) in paragraph (1), by striking “(1)” after “(l)”, and by striking “the State of” and all that follows through “prior to the date of enactment of this subsection” and inserting “a State entered into pursuant to this section”; and

(2) by striking paragraph (2).

(b) **CONFORMING AMENDMENT.**—Section 218(d)(8)(D) of such Act (42 U.S.C. 418(d)(8)(D)) is amended by striking “agreements with the States named in” and inserting “State agreements modified as provided in”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to modifications filed by States after the date of the enactment of this Act. 42 USC 418 note.

SEC. 306. LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY. 26 USC 1402 note.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, if—

(1) an individual performed services described in section 1402(c)(4) of the Internal Revenue Code of 1986 which are subject to tax under section 1401 of such Code,

(2) such services were performed in Canada at a time when no agreement between the United States and Canada pursuant to section 233 of the Social Security Act was in effect, and

(3) such individual was required to pay contributions on the earnings from such services under the social insurance system of Canada,

then such individual may file a certificate under this section in such form and manner, and with such official, as may be prescribed in regulations issued under chapter 2 of such Code. Upon the filing of such certificate, notwithstanding any judgment which has been entered to the contrary, such individual shall be exempt from payment of such tax with respect to services described in paragraphs (1) and (2) and from any penalties or interest for failure to pay such tax or to file a self-employment tax return as required under section 6017 of such Code.

(b) **PERIOD FOR FILING.**—A certificate referred to in subsection (a) may be filed only during the 180-day period commencing with the date on which the regulations referred to in subsection (a) are issued.

(c) **TAXABLE YEARS AFFECTED BY CERTIFICATE.**—A certificate referred to in subsection (a) shall be effective for taxable years ending after December 31, 1978, and before January 1, 1985.

(d) **RESTRICTION ON CREDITING OF EXEMPT SELF-EMPLOYMENT INCOME.**—In any case in which an individual is exempt under this section from paying a tax imposed under section 1401 of the Internal Revenue Code of 1986, any income on which such tax would have been imposed but for such exemption shall not constitute self-employment income under section 211(b) of the Social Security Act (42 U.S.C. 411(b)), and, if such individual's primary

insurance amount has been determined under section 215 of such Act (42 U.S.C. 415), notwithstanding section 215(f)(1) of such Act, the Secretary of Health and Human Services (prior to March 31, 1995) or the Commissioner of Social Security (after March 30, 1995) shall recompute such primary insurance amount so as to take into account the provisions of this subsection. The recomputation under this subsection shall be effective with respect to benefits for months following approval of the certificate of exemption.

SEC. 307. EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION.

(a) **IN GENERAL.**—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking “but excluding” and all that follows through “1937” and inserting “but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233”; and

(2) in subparagraph (E), by inserting after “in the case of an individual” the following: “whose eligibility for old-age or disability insurance benefits is based on an agreement concluded pursuant to section 233 or an individual”.

(b) **CONFORMING AMENDMENT RELATING TO BENEFITS UNDER 1939 ACT.**—Section 215(d)(3) of such Act (42 U.S.C. 415(d)(3)) is amended by striking “but excluding” and all that follows through “1937” and inserting “but excluding (I) a payment under the Railroad Retirement Act of 1974 or 1937, and (II) a payment by a social security system of a foreign country based on an agreement concluded between the United States and such foreign country pursuant to section 233”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply (notwithstanding section 215(f)(1) of the Social Security Act (42 U.S.C. 415(f)(1))) with respect to benefits payable for months after December 1994.

SEC. 308. EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) **EXCLUSION FROM GOVERNMENT PENSION OFFSET PROVISIONS.**—Subsections (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4), (c)(2), (e)(7), (f)(2), and (g)(4)) are each amended—

(1) in subparagraph (A)(ii), by striking “unless subparagraph (B) applies.”;

(2) in subparagraph (A), by striking “The” in the matter following clause (ii) and inserting “unless subparagraph (B) applies. The”; and

(3) in subparagraph (B), by redesignating the existing matter as clause (ii), and by inserting before such clause (ii) (as so redesignated) the following:

“(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).”.

(b) **EXCLUSION FROM WINDFALL ELIMINATION PROVISIONS.**—Section 215(a)(7)(A) of such Act (as amended by section 307(a) of

this Act) and section 215(d)(3) of such Act (as amended by section 307(b) of this Act) are each further amended—

(1) by striking “and” before “(II)”; and

(2) by striking “section 233” and inserting “section 233, and (III) a payment based wholly on service as a member of a uniformed service (as defined in section 210(m))”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply (notwithstanding section 215(f) of the Social Security Act) with respect to benefits payable for months after December 1994.

42 USC 402
note.

SEC. 309. REPEAL OF THE FACILITY-OF-PAYMENT PROVISION.

(a) REPEAL OF RULE PRECLUDING REDISTRIBUTION UNDER FAMILY MAXIMUM.—Section 203(i) of the Social Security Act (42 U.S.C. 403(i)) is repealed.

(b) COORDINATION UNDER FAMILY MAXIMUM OF REDUCTION IN BENEFICIARY'S AUXILIARY BENEFITS WITH SUSPENSION OF AUXILIARY BENEFITS OF OTHER BENEFICIARY UNDER EARNINGS TEST.—Section 203(a)(4) of such Act (42 U.S.C. 403(a)(4)) is amended by striking “section 222(b). Whenever” and inserting the following: “section 222(b). Notwithstanding the preceding sentence, any reduction under this subsection in the case of an individual who is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for any month on the basis of the same wages and self-employment income as another person—

“(A) who also is entitled to a benefit under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 for such month,

“(B) who does not live in the same household as such individual, and

“(C) whose benefit for such month is suspended (in whole or in part) pursuant to subsection (h)(3) of this section, shall be made before the suspension under subsection (h)(3). Whenever”.

(c) CONFORMING AMENDMENT APPLYING EARNINGS REPORTING REQUIREMENT DESPITE SUSPENSION OF BENEFITS.—The third sentence of section 203(h)(1)(A) of such Act (42 U.S.C. 403(h)(1)(A)) is amended by striking “Such report need not be made” and all that follows through “The Secretary may grant” and inserting the following: “Such report need not be made for any taxable year—

“(i) beginning with or after the month in which such individual attained age 70, or

“(ii) if benefit payments for all months (in such taxable year) in which such individual is under age 70 have been suspended under the provisions of the first sentence of paragraph (3) of this subsection, unless—

“(I) such individual is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202,

“(II) such benefits are reduced under subsection (a) of this section for any month in such taxable year, and

“(III) in any such month there is another person who also is entitled to benefits under subsection (b), (c), (d), (e), (f), (g), or (h) of section 202 on the basis of the same wages and self-employment income and who does not live in the same household as such individual.

The Secretary may grant”.

(d) CONFORMING AMENDMENT DELETING SPECIAL INCOME TAX TREATMENT OF BENEFITS NO LONGER REQUIRED BY REASON OF

REPEAL.—Section 86(d)(1) of the Internal Revenue Code of 1986 (relating to income tax on social security benefits) is amended by striking the last sentence.

(e) EFFECTIVE DATES.—

42 USC 403
note.

(1) The amendments made by subsections (a), (b), and (c) shall apply with respect to benefits payable for months after December 1995.

26 USC 86
note.

(2) The amendment made by subsection (d) shall apply with respect to benefits received after December 31, 1995, in taxable years ending after such date.

SEC. 310. MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES.

(a) IN GENERAL.—Section 203(a) of the Social Security Act (42 U.S.C. 403(a)) is amended by adding at the end the following new paragraph:

“(10)(A) Subject to subparagraphs (B) and (C)—

“(i) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(B)(i) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits, increased for this purpose by the general benefit increases and other increases under section 215(i) that would have applied to such total monthly benefits had the individual remained entitled to disability insurance benefits until the month in which he became entitled to old-age insurance benefits or reentitled to disability insurance benefits or died, and

“(ii) the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for a month on the basis of the wages and self-employment income of an individual whose primary insurance amount is computed under section 215(a)(2)(C) shall equal the total monthly benefits which were authorized by this section with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits.

“(B) In any case in which—

“(i) the total monthly benefits with respect to such individual's primary insurance amount for the last month of his prior entitlement to disability insurance benefits was computed under paragraph (6), and

“(ii) the individual's primary insurance amount is computed under subparagraph (B)(i) or (C) of section 215(a)(2) by reason of the individual's entitlement to old-age insurance benefits or death,

the total monthly benefits shall equal the total monthly benefits that would have been authorized with respect to the primary insurance amount for the last month of his prior entitlement to disability insurance benefits if such total monthly benefits had been computed without regard to paragraph (6).

“(C) This paragraph shall apply before the application of paragraph (3)(A), and before the application of section 203(a)(1) of this Act as in effect in December 1978.”

(b) CONFORMING AMENDMENT.—Section 203(a)(8) of such Act (42 U.S.C. 403(a)(8)) is amended by striking “Subject to paragraph

(7),” and inserting “Subject to paragraph (7) and except as otherwise provided in paragraph (10)(C),”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply for the purpose of determining the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 of the Social Security Act based on the wages and self-employment income of an individual who—

42 USC 403
note.

(1) becomes entitled to an old-age insurance benefit under section 202(a) of such Act,

(2) becomes reentitled to a disability insurance benefit under section 223 of such Act, or

(3) dies,

after December 1995.

SEC. 311. AUTHORIZATION FOR DISCLOSURE OF SOCIAL SECURITY INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH.

(a) **IN GENERAL.**—Section 1106 of the Social Security Act (42 U.S.C. 1306) is amended—

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

(2) in subsection (f) (as so redesignated), by striking “subsection (d)” and inserting “subsection (e)”; and

(3) by inserting after subsection (c) the following new subsection:

“(d) Notwithstanding any other provision of this section, in any case in which—

“(1) information regarding whether an individual is shown on the records of the Secretary as being alive or deceased is requested from the Secretary for purposes of epidemiological or similar research which the Secretary finds may reasonably be expected to contribute to a national health interest, and

“(2) the requester agrees to reimburse the Secretary for providing such information and to comply with limitations on safeguarding and rerelease or redisclosure of such information as may be specified by the Secretary,

the Secretary shall comply with such request, except to the extent that compliance with such request would constitute a violation of the terms of any contract entered into under section 205(r).”.

(b) **AVAILABILITY OF INFORMATION RETURNS REGARDING WAGES PAID EMPLOYEES.**—Section 6103(1)(5) of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information to the Department of Health and Human Services for purposes other than tax administration) is amended—

(1) by striking “for the purpose of” and inserting “for the purpose of—”;

(2) by striking “carrying out, in accordance with an agreement” and inserting the following:

“(A) carrying out, in accordance with an agreement”;

(3) by striking “program.” and inserting “program; or”;

and

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

“(B) providing information regarding the mortality status of individuals for epidemiological and similar research in accordance with section 1106(d) of the Social Security Act.”.

26 USC 6103
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to requests for information made after the date of the enactment of this Act.

SEC. 312. MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY ADMINISTRATION OR DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) **PROHIBITION OF UNAUTHORIZED REPRODUCTION, REPRINTING, OR DISTRIBUTION FOR FEE OF CERTAIN OFFICIAL PUBLICATIONS.**—Section 1140(a) of the Social Security Act (42 U.S.C. 1320b-10(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” after “(a)”; and

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

“(2) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration or of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.”

(b) **ADDITION TO PROHIBITED WORDS, LETTERS, SYMBOLS, AND EMBLEMS.**—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended—

(1) in subparagraph (A) (as redesignated), by striking “Administration”, the letters ‘SSA’ or ‘HCFA’,” and inserting “Administration”, ‘Department of Health and Human Services’, ‘Health and Human Services’, ‘Supplemental Security Income Program’, or ‘Medicaid’, the letters ‘SSA’, ‘HCFA’, ‘DHHS’, ‘HHS’, or ‘SSI’;” and

(2) in subparagraph (B) (as amended by section 304 and as redesignated), by striking “Social Security Administration” each place it appears and inserting “Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services”, by striking “or of the Health Care Financing Administration”, and by inserting “or the Medicare card,” after “205(c)(2)(F)”.

(c) **EXEMPTION FOR USE OF WORDS, LETTERS, SYMBOLS, AND EMBLEMS OF STATE AND LOCAL GOVERNMENT AGENCIES BY SUCH AGENCIES.**—Paragraph (1) of section 1140(a) of such Act (as redesignated by subsection (a)) is further amended by adding at the end the following new sentence: “The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.”

(d) **INCLUSION OF REASONABLENESS STANDARD.**—Section 1140(a)(1) of such Act (as amended by the preceding provisions of this section) is further amended, in the matter following subparagraph (B) (as redesignated), by striking “convey” and inserting “convey, or in a manner which reasonably could be interpreted or construed as conveying,”

(e) **INEFFECTIVENESS OF DISCLAIMERS.**—Subsection (a) of section 1140 of such Act (as amended by the preceding provisions of this

section) is further amended by adding at the end the following new paragraph:

“(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.”

(f) VIOLATIONS WITH RESPECT TO INDIVIDUAL ITEMS.—Section 1140(b)(1) of such Act (42 U.S.C. 1320b-10(b)(1)) is amended by adding at the end the following new sentence: “In the case of any items referred to in subsection (a)(1) consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) shall represent a separate violation. In the case of any item referred to in subsection (a)(2), the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.”

(g) ELIMINATION OF CAP ON AGGREGATE LIABILITY AMOUNT.—

(1) REPEAL.—Paragraph (2) of section 1140(b) of such Act (42 U.S.C. 1320b-10(b)(2)) is repealed.

(2) CONFORMING AMENDMENTS.—Section 1140(b) of such Act is further amended—

(A) by striking “(1) Subject to paragraph (2), the” and inserting “The”;

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(C) in paragraph (1) (as redesignated), by striking “subparagraph (B)” and inserting “paragraph (2)”.

(h) REMOVAL OF FORMAL DECLINATION REQUIREMENT.—Section 1140(c)(1) of such Act (42 U.S.C. 1320b-10(c)(1)) is amended by inserting “and the first sentence of subsection (c)” after “and (i)”.

(i) PENALTIES RELATING TO SOCIAL SECURITY ADMINISTRATION DEPOSITED IN OASI TRUST FUND, AND PENALTIES RELATED TO HEALTH CARE FINANCING ADMINISTRATION DEPOSITED IN THE HI AND SMI TRUST FUNDS.—Section 1140(c)(2) of such Act (42 U.S.C. 1320b-10(c)(2)) is amended in the second sentence by striking “United States.” and inserting “United States, except that (A) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivors Insurance Trust Fund, and (B) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Department of Health and Human Services, such amounts shall be deposited into the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, as appropriate.”

(j) ENFORCEMENT.—Section 1140 of such Act (42 U.S.C. 1320b-10) is amended by adding at the end the following new subsection:

“(d) The preceding provisions of this section may be enforced through the Office of the Inspector General of the Department of Health and Human Services.”

(k) REPORTS.—

(1) **IN GENERAL.**—The Secretary of Health and Human Services and the Commissioner of Social Security shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 3 reports on the operation of section 1140 of the Social Security Act with respect to the Social Security Administration or the Department of Health and Human Services during the period covered by the report, which shall specify—

(A) the number of complaints of violations of such section received by the Social Security Administration or the Department of Health and Human Services during the period,

(B) the number of cases in which the Social Security Administration or the Department, during the period, sent a notice of violation of such section requesting that an individual cease activities in violation of such section,

(C) the number of cases in which the Social Security Administration or the Department formally proposed a civil money penalty in a demand letter during the period,

(D) the total amount of civil money penalties assessed by the Social Security Administration or the Department under this section during the period,

(E) the number of requests for hearings filed during the period by the Social Security Administration or the Department pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act,

(F) the disposition during the period of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act, and

(G) the total amount of civil money penalties collected under this section and deposited into the Federal Old-Age and Survivors Insurance Trust Fund or the Health Insurance and Supplementary Medical Insurance Trust Funds, as applicable, during the period.

(2) **WHEN DUE.**—The reports required by paragraph (1) shall be submitted not later than December 1, 1995, not later than December 1, 1997, and not later than December 1, 1999, respectively.

(1) **PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.**—

(1) **GENERAL RULE.**—Subchapter II of chapter 3 of title 31, United States Code, is amended by adding at the end thereof the following new section:

“§ 333. Prohibition of misuse of Department of the Treasury names, symbols, etc.

“(a) **GENERAL RULE.**—No person may use, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, whether alone or with other words, letters, symbols, or emblems—

“(1) the words ‘Department of the Treasury’, or the name of any service, bureau, office, or other subdivision of the Department of the Treasury,

“(2) the titles ‘Secretary of the Treasury’ or ‘Treasurer of the United States’ or the title of any other officer or employee of the Department of the Treasury,

“(3) the abbreviations or initials of any entity referred to in paragraph (1),

“(4) the words ‘United States Savings Bond’ or the name of any other obligation issued by the Department of the Treasury,

“(5) any symbol or emblem of an entity referred to in paragraph (1) (including the design of any envelope or stationary used by such an entity), and

“(6) any colorable imitation of any such words, titles, abbreviations, initials, symbols, or emblems,

in a manner which could reasonably be interpreted or construed as conveying the false impression that such advertisement, solicitation, business activity, or product is in any manner approved, endorsed, sponsored, or authorized by, or associated with, the Department of the Treasury or any entity referred to in paragraph (1) or any officer or employee thereof.

“(b) TREATMENT OF DISCLAIMERS.—Any determination of whether a person has violated the provisions of subsection (a) shall be made without regard to any use of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

“(c) CIVIL PENALTY.—

“(1) IN GENERAL.—The Secretary of the Treasury may impose a civil penalty on any person who violates the provisions of subsection (a).

“(2) AMOUNT OF PENALTY.—The amount of the civil penalty imposed by paragraph (1) shall not exceed \$5,000 for each use of any material in violation of subsection (a). If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘\$25,000’ for ‘\$5,000’.

“(3) TIME LIMITATIONS.—

“(A) ASSESSMENTS.—The Secretary of the Treasury may assess any civil penalty under paragraph (1) at any time before the end of the 3-year period beginning on the date of the violation with respect to which such penalty is imposed.

“(B) CIVIL ACTION.—The Secretary of the Treasury may commence a civil action to recover any penalty imposed under this subsection at any time before the end of the 2-year period beginning on the date on which such penalty was assessed.

“(4) COORDINATION WITH SUBSECTION (d).—No penalty may be assessed under this subsection with respect to any violation after a criminal proceeding with respect to such violation has been commenced under subsection (d).

“(d) CRIMINAL PENALTY.—

“(1) IN GENERAL.—If any person knowingly violates subsection (a), such person shall, upon conviction thereof, be fined not more than \$10,000 for each such use or imprisoned not more than 1 year, or both. If such use is in a broadcast or telecast, the preceding sentence shall be applied by substituting ‘\$50,000’ for ‘\$10,000’.

“(2) TIME LIMITATIONS.—No person may be prosecuted, tried, or punished under paragraph (1) for any violation of subsection (a) unless the indictment is found or the information instituted during the 3-year period beginning on the date of the violation.

“(3) COORDINATION WITH SUBSECTION (c).—No criminal proceeding may be commenced under this subsection with respect to any violation if a civil penalty has previously been assessed under subsection (c) with respect to such violation.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 31, United States Code, is amended by adding after the item relating to section 332 the following new item:

“333. Prohibition of misuse of Department of the Treasury names, symbols, etc.”.

(3) REPORT.—Not later than May 1, 1996, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the implementation of the amendments made by this section. Such report shall include the number of cases in which the Secretary has notified persons of violations of section 333 of title 31, United States Code (as added by subsection (a)), the number of prosecutions commenced under such section, and the total amount of the penalties collected in such prosecutions.

(m) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations occurring after March 31, 1995.

(2) PROHIBITION OF MISUSE OF DEPARTMENT OF THE TREASURY NAMES, SYMBOLS, ETC.—Subsection (1)(3) shall take effect on the date of the enactment of this Act, and the amendments made by paragraphs (1) and (2) of subsection (1) shall apply with respect to violations occurring after such date.

SEC. 313. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(1) by striking “misdemeanor” and inserting “felony”;

(2) by striking “\$1,000” and inserting “\$10,000 for each occurrence of a violation”; and

(3) by striking “one year” and inserting “5 years”.

(b) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(1) by inserting “social security account number,” after “information as to the”;

(2) by striking “misdemeanor” and inserting “felony”;

(3) by striking “\$1,000” and inserting “\$10,000 for each occurrence of a violation”; and

(4) by striking “one year” and inserting “5 years”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on or after the date of the enactment of this Act.

SEC. 314. INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT.

(a) IN GENERAL.—Section 203(h)(1)(A) of the Social Security Act (42 U.S.C. 403(h)(1)(A)) is amended in the last sentence by striking “three months” and inserting “four months”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to reports of earnings for taxable years ending on or after December 31, 1994.

31 USC 333
note.

42 USC 1306
note.

42 USC 403
note.

SEC. 315. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) **IN GENERAL.**—Section 505 of the Social Security Disability Amendments of 1980 (Public Law 96-265), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and section 5120 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), is further amended—

(1) in paragraph (3) of subsection (a), by striking “June 10, 1993” and inserting “June 10, 1996”;

(2) in paragraph (4) of subsection (a), by striking “1992” and inserting “1995”; and

(3) in subsection (c), by striking “October 1, 1993” and inserting “October 1, 1996”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

42 USC 1310
note.

42 USC 1310
note.

SEC. 316. CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE.

(a) **SOCIAL SECURITY ACCOUNT NUMBER INFORMATION.**—Clause (iii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as added by section 1735(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3791)) is amended—

(1) by inserting “(I)” after “(iii)”; and

(2) by striking “The Secretary of Agriculture shall restrict” and all that follows and inserting the following:

“(I) The Secretary of Agriculture may share any information contained in any list referred to in subclause (I) with any other agency or instrumentality of the United States which otherwise has access to social security account numbers in accordance with this subsection or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

“(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

“(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.”.

26 USC 6109.

(b) EMPLOYER IDENTIFICATION NUMBER INFORMATION.—Subsection (f) of section 6109 of the Internal Revenue Code of 1986 (as added by section 1735(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3792)) (relating to access to employer identification numbers by Secretary of Agriculture for purposes of Food Stamp Act of 1977) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) SHARING OF INFORMATION AND SAFEGUARDS.—

“(A) SHARING OF INFORMATION.—The Secretary of Agriculture may share any information contained in any list referred to in paragraph (1) with any other agency or instrumentality of the United States which otherwise has access to employer identification numbers in accordance with this section or other applicable Federal law, except that the Secretary of Agriculture may share such information only to the extent that such Secretary determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subparagraph may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

“(B) SAFEGUARDS.—The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in subparagraph (A), shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this subsection only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subparagraph (A). The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to subparagraph (A), shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.”;

(2) in paragraph (3), by striking “by the Secretary of Agriculture pursuant to this subsection” and inserting “pursuant to this subsection by the Secretary of Agriculture or the head of any agency or instrumentality with which information is shared pursuant to paragraph (2)”, and by striking “social security account numbers” and inserting “employer identification numbers”; and

(3) in paragraph (4), by striking “by the Secretary of Agriculture pursuant to this subsection” and inserting “pursuant to this subsection by the Secretary of Agriculture or any agency or instrumentality with which information is shared pursuant to paragraph (2)”.

SEC. 317. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking “with respect to benefits received before October 1, 1992”.

45 USC 231n
note.

SEC. 318. AUTHORIZATION FOR USE OF SOCIAL SECURITY ACCOUNT NUMBERS BY DEPARTMENT OF LABOR IN ADMINISTRATION OF FEDERAL WORKERS' COMPENSATION LAWS.

Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

“(ix) In the administration of the provisions of chapter 81 of title 5, United States Code, and the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), the Secretary of Labor may require by regulation that any person filing a notice of injury or a claim for benefits under such provisions provide as part of such notice or claim such person's social security account number, subject to the requirements of this clause. No officer or employee of the Department of Labor shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such provisions. The Secretary of Labor shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of such provisions. The Secretary of Labor shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.”.

SEC. 319. COVERAGE UNDER FICA OF FEDERAL EMPLOYEES TRANSFERRED TEMPORARILY TO INTERNATIONAL ORGANIZATIONS.

(a) TREATMENT OF SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Section 3121 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

26 USC 3121.

“(y) SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—

“(1) IN GENERAL.—For purposes of this chapter, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5, United States Code, shall constitute ‘employment’ if—

“(A) immediately before such transfer, such individual performed service with a Federal agency which constituted ‘employment’ under subsection (b) for purposes of the taxes imposed by sections 3101(a) and 3111(a), and

“(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) FEDERAL AGENCY.—The term ‘Federal agency’ means an agency, as defined in section 3581(1) of title 5, United States Code.

“(B) INTERNATIONAL ORGANIZATION.—The term ‘international organization’ has the meaning provided such term by section 3581(3) of title 5, United States Code.”

(2) CONTRIBUTIONS BY FEDERAL AGENCY.—Section 3122 of such Code (relating to Federal service) is amended by inserting after the first sentence the following new sentence: “In the case of the taxes imposed by this chapter with respect to service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable, the determination of the amount of remuneration for such service, and the return and payment of the taxes imposed by this chapter, shall be made by the head of the Federal agency from which the transfer was made.”

(3) COLLECTION OF EMPLOYEE CONTRIBUTIONS.—Section 3102 of such Code (relating to deduction of tax from wages) is amended by adding at the end the following new subsection: “(e) SPECIAL RULE FOR CERTAIN TRANSFERRED FEDERAL EMPLOYEES.—In the case of any payments of wages for service performed in the employ of an international organization pursuant to a transfer to which the provisions of section 3121(y) are applicable—

“(1) subsection (a) shall not apply,

“(2) the head of the Federal agency from which the transfer was made shall separately include on the statement required under section 6051—

“(A) the amount determined to be the amount of the wages for such service, and

“(B) the amount of the tax imposed by section 3101 on such payments, and

“(3) the tax imposed by section 3101 on such payments shall be paid by the employee.”

(4) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Paragraph (2)(C) of section 1402(c) of such Code (defining trade or business) is amended by adding at the end the following: “except service which constitutes ‘employment’ under section 3121(y),”.

(5) CONFORMING AMENDMENT.—Paragraph (15) of section 3121(b) of such Code is amended by inserting “, except service which constitutes ‘employment’ under subsection (y)” after “organization”.

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—Section 210 of the Social Security Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

“SERVICE IN THE EMPLOY OF INTERNATIONAL ORGANIZATIONS BY CERTAIN TRANSFERRED FEDERAL EMPLOYEES

“(r)(1) For purposes of this title, service performed in the employ of an international organization by an individual pursuant to a transfer of such individual to such international organization pursuant to section 3582 of title 5, United States Code, shall constitute ‘employment’ if—

“(A) immediately before such transfer, such individual performed service with a Federal agency which constituted ‘employment’ as defined in subsection (a), and

“(B) such individual would be entitled, upon separation from such international organization and proper application, to reemployment with such Federal agency under such section 3582.

“(2) For purposes of this subsection:

“(A) The term ‘Federal agency’ means an agency, as defined in section 3581(1) of title 5, United States Code.

“(B) The term ‘international organization’ has the meaning provided such term by section 3581(3) of title 5, United States Code.”

(2) EXCLUSION FROM TREATMENT AS TRADE OR BUSINESS.—Section 211(c)(2)(C) of such Act (42 U.S.C. 411(c)(2)(C)) is amended by inserting before the semicolon the following “, except service which constitutes ‘employment’ under section 210(r)”.

(3) CONFORMING AMENDMENT.—Section 210(a)(15) of such Act (42 U.S.C. 410(a)(15)) is amended by inserting “, except service which constitutes ‘employment’ under subsection (r)” before the semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after the calendar quarter following the calendar quarter in which the date of the enactment of this Act occurs.

26 USC 1402
note.

SEC. 320. EXTENSION OF THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101 OF THE IMMIGRATION AND NATIONALITY ACT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking “(J), or (M)” each place it appears and inserting “(J), (M), or (Q)”:

- (A) Section 871(c).
- (B) Section 1441(b).
- (C) Section 3121(b)(19).
- (D) Section 3231(e)(1).
- (E) Section 3306(c)(19).

(2) Paragraph (3) of section 872(b) of such Code is amended by striking “(F) or (J)” and inserting “(F), (J), or (Q)”.

(3) Paragraph (5) of section 7701(b) of such Code is amended by striking “subparagraph (J)” in subparagraphs (C)(i) and (D)(i)(II) and inserting “subparagraph (J) or (Q)”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Paragraph (19) of section 210(a) of the Social Security Act is amended by striking “(J), or (M)” each place it appears and inserting “(J), (M), or (Q)”.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall take effect with the calendar quarter following the date of the enactment of this Act.

SEC. 321. TECHNICAL AND CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT.—

(1) Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended, in the matter following clause (4), by striking “and and” and inserting “and”.

(2) Section 202(d)(8)(D)(ii) of such Act (42 U.S.C. 402(d)(8)(D)(ii)) is amended by adding a period at the end, and by adjusting the left hand margination thereof so as to align with section 202(d)(8)(D)(i) of such Act.

(3) Section 202(q)(1)(A) of such Act (42 U.S.C. 402(q)(1)(A)) is amended by striking the dash at the end.

(4) Section 202(q)(9) of such Act (42 U.S.C. 402(q)(9)) is amended, in the matter preceding subparagraph (A), by striking “parargaph” and inserting “paragraph”.

(5) Section 202(t)(4)(D) of such Act (42 U.S.C. 402(t)(4)(D)) is amended by inserting “if the” before “Secretary” the second and third places it appears.

(6) Clauses (i) and (ii) of section 203(f)(5)(C) of such Act (42 U.S.C. 403(f)(5)(C)) are amended by adjusting the left-hand margination thereof so as to align with clauses (i) and (ii) of section 203(f)(5)(B) of such Act.

(7) Paragraph (3)(A) and paragraph (3)(B) of section 205(b) of such Act (42 U.S.C. 405(b)) are amended by adjusting the left-hand margination thereof so as to align with the matter following section 205(b)(2)(C) of such Act.

(8) Section 205(c)(2)(B)(iii) of such Act (42 U.S.C. 405(c)(2)(B)(iii)) is amended by striking “non-public” and inserting “nonpublic”.

(9) Section 205(c)(2)(C) of such Act (42 U.S.C. 405(c)(2)(C)) is amended—

(A) by striking the clause (vii) added by section 2201(c) of Public Law 101-624;

(B) by redesignating the clause (iii) added by section 2201(b)(3) of Public Law 101-624, clause (iv), clause (v), clause (vi), and the clause (vii) added by section 1735(b) of Public Law 101-624 as clause (iv), clause (v), clause (vi), clause (vii), and clause (viii), respectively;

(C) in clause (v) (as redesignated), by striking “subclause (I) of”, and by striking “subclause (II) of clause (i)” and inserting “clause (ii)”; and

(D) in clause (viii)(IV) (as redesignated), by inserting “a social security account number or” before “a request for”.

(10) The heading for section 205(j) of such Act (42 U.S.C. 405(j)) is amended to read as follows:

“Representative Payees”.

(11) The heading for section 205(s) of such Act (42 U.S.C. 405(s)) is amended to read as follows:

“Notice Requirements”.

(12) Section 208(c) of such Act (42 U.S.C. 408(c)) is amended by striking “subsection (g)” and inserting “subsection (a)(7)”.

(13) Section 210(a)(5)(B)(i)(V) of such Act (42 U.S.C. 410(a)(5)(B)(i)(V)) is amended by striking “section 105(e)(2)” and inserting “section 104(e)(2)”.

(14) Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(A) in paragraph (13), by striking “and” at the end; and

(B) in paragraph (14), by striking the period and inserting “, and”.

(15) Section 213(c) of such Act (42 U.S.C. 413(c)) is amended by striking “section” the first place it appears and inserting “sections”.

(16) Section 215(a)(5)(B)(i) of such Act (42 U.S.C. 415(a)(5)(B)(i)) is amended by striking “subsection” the second place it appears and inserting “subsections”.

(17) Section 215(f)(7) of such Act (42 U.S.C. 415(f)(7)) is amended by inserting a period after “1990”.

(18) Subparagraph (F) of section 218(c)(6) of such Act (42 U.S.C. 418(c)(6)) is amended by adjusting the left-hand margination thereof so as to align with section 218(c)(6)(E) of such Act.

(19) Section 223(i) of such Act (42 U.S.C. 423(i)) is amended by adding at the beginning the following heading:

“Limitation on Payments to Prisoners”.

(b) RELATED AMENDMENTS.—

(1) Section 603(b)(5)(A) of Public Law 101-649 (amending section 202(n)(1) of the Social Security Act) (104 Stat. 5085) is amended by inserting “under” before “paragraph (1),” and by striking “(17), or (18)” and inserting “(17), (18), or (19)”, effective as if this paragraph were included in such section 603(b)(5)(A).

42 USC 402.

(2) Section 10208(b)(1) of Public Law 101-239 (amending section 230(b)(2)(A) of the Social Security Act) (103 Stat. 2477) is amended by striking “230(b)(2)(A)” and “430(b)(2)(A)” and inserting “230(b)(2)” and “430(b)(2)”, respectively, effective as if this paragraph were included in such section 10208(b)(1).

42 USC 430.

(c) CONFORMING, CLERICAL AMENDMENTS UPDATING, WITHOUT SUBSTANTIVE CHANGE, REFERENCES IN TITLE II OF THE SOCIAL SECURITY ACT TO THE INTERNAL REVENUE CODE.—

(1)(A)(i) Section 201(g)(1) of such Act (42 U.S.C. 401(g)(1)) is amended—

42 USC 401
note.

(I) in subparagraph (A)(i), by striking “and subchapter E” and all that follows through “1954” and inserting “and chapters 2 and 21 of the Internal Revenue Code of 1986”;

(II) in subparagraph (A)(ii), by striking “1954” and inserting “1986”;

(III) in the matter in subparagraph (A) following clause (ii), by striking “subchapter E” and all that follows through “1954.” and inserting “chapters 2 and 21 of the Internal Revenue Code of 1986.”, and by striking “1954 other” and inserting “1986 other”; and

(IV) in subparagraph (B), by striking “1954” each place it appears and inserting “1986”.

(ii) The amendments made by clause (i) shall apply only with respect to periods beginning on or after the date of the enactment of this Act.

(B)(i) Section 201(g)(2) of such Act (42 U.S.C. 401(g)(2)) is amended by striking “section 3101(a)” and all that follows through “1950.” and inserting “section 3101(a) of the Internal Revenue Code of 1986 which are subject to refund under section 6413(c) of such Code with respect to wages (as defined in section 3121 of such Code).”, and by striking “wages reported” and all that follows through “1954,” and inserting “wages reported to the Secretary of the Treasury or his delegate pursuant to subtitle F of such Code.”.

(ii) The amendments made by clause (i) shall apply only with respect to wages paid on or after January 1, 1995.

42 USC 401
note.

(C) Section 201(g)(4) of such Act (42 U.S.C. 401(g)(4)) is amended—

(i) by striking “The Board of Trustees shall prescribe before January 1, 1981, the method” and inserting “If at any time or times the Boards of Trustees of such Trust

Funds deem such action advisable, they may modify the method prescribed by such Boards”;

(ii) by striking “1954” and inserting “1986”; and

(iii) by striking the last sentence.

(2) Section 202(v) of such Act (42 U.S.C. 402(v)) is amended—

(A) in paragraph (1), by striking “1954” and inserting “1986”; and

(B) in paragraph (3)(A), by inserting “of the Internal Revenue Code of 1986” after “3127”.

(3) Section 205(c)(5)(F)(i) of such Act (42 U.S.C. 405(c)(5)(F)(i)) is amended by inserting “or the Internal Revenue Code of 1986” after “1954”.

(4)(A) Section 209(a)(4)(A) of such Act (42 U.S.C. 409(a)(4)(A)) is amended by inserting “or the Internal Revenue Code of 1986” after “Internal Revenue Code of 1954”.

(B) Section 209(a) of such Act (42 U.S.C. 409(a)) is amended—

(i) in subparagraphs (C) and (E) of paragraph (4),

(ii) in paragraph (5)(A),

(iii) in subparagraphs (A) and (B) of paragraph (14),

(iv) in paragraph (15),

(v) in paragraph (16), and

(vi) in paragraph (17),

by striking “1954” each place it appears and inserting “1986”.

(C) Subsections (b), (f), (g), (i)(1), and (j) of section 209 of such Act (42 U.S.C. 409) are amended by striking “1954” each place it appears and inserting “1986”.

(5) Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by inserting “of the Internal Revenue Code of 1986” after “section 162(m)”.

(6) Title II of such Act is further amended—

(A) in subsections (f)(5)(B)(ii) and (k) of section 203 (42 U.S.C. 403),

(B) in section 205(c)(1)(D)(i) (42 U.S.C. 405(c)(1)(D)(i)),

(C) in the matter in section 210(a) (42 U.S.C. 410(a)) preceding paragraph (1) and in paragraphs (8), (9), and (10) of section 210(a),

(D) in subsections (p)(4) and (q) of section 210 (42 U.S.C. 410),

(E) in the matter in section 211(a) (42 U.S.C. 411(a)) preceding paragraph (1) and in paragraphs (3), (4), (6), (10), (11), and (12) and clauses (iii) and (iv) of section 211(a),

(F) in the matter in section 211(c) (42 U.S.C. 411(c)) preceding paragraph (1), in paragraphs (3) and (6) of section 211(c), and in the matter following paragraph (6) of section 211(c),

(G) in subsections (d), (e), and (h)(1)(B) of section 211 (42 U.S.C. 411),

(H) in section 216(j) (42 U.S.C. 416(j)),

(I) in section 218(e)(3) (42 U.S.C. 418(e)(3)),

(J) in section 229(b) (42 U.S.C. 429(b)),

(K) in section 230(c) (42 U.S.C. 430(c)), and

(L) in section 232 (42 U.S.C. 432),

by striking “1954” each place it appears and inserting “1986”.

(d) RULES OF CONSTRUCTION.—

(1) The preceding provisions of this section shall be construed only as technical and clerical corrections and as reflecting the original intent of the provisions amended thereby.

(2) Any reference in title II of the Social Security Act to the Internal Revenue Code of 1986 shall be construed to include a reference to the Internal Revenue Code of 1954 to the extent necessary to carry out the provisions of paragraph (1).

(e) UTILIZATION OF NATIONAL AVERAGE WAGE INDEX FOR WAGE-BASED ADJUSTMENTS.—

(1) DEFINITION OF NATIONAL AVERAGE WAGE INDEX.—Section 209(k) of the Social Security Act (42 U.S.C. 409(k)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) in paragraph (3) (as redesignated), by striking “paragraph (1)” and inserting “this subsection”; and

(C) by striking paragraph (1) and inserting the following new paragraphs:

“(k)(1) For purposes of sections 203(f)(8)(B)(ii), 213(d)(2)(B), 215(a)(1)(B)(ii), 215(a)(1)(C)(ii), 215(a)(1)(D), 215(b)(3)(A)(ii), 215(i)(1)(E), 215(i)(2)(C)(ii), 224(f)(2)(B), and 230(b)(2) (and 230(b)(2) as in effect immediately prior to the enactment of the Social Security Amendments of 1977), the term ‘national average wage index’ for any particular calendar year means, subject to regulations of the Secretary under paragraph (2), the average of the total wages for such particular calendar year.

“(2) The Secretary shall prescribe regulations under which the national average wage index for any calendar year shall be computed—

Regulations.

“(A) on the basis of amounts reported to the Secretary of the Treasury or his delegate for such year,

“(B) by disregarding the limitation on wages specified in subsection (a)(1),

“(C) with respect to calendar years after 1990, by incorporating deferred compensation amounts and factoring in for such years the rate of change from year to year in such amounts, in a manner consistent with the requirements of section 10208 of the Omnibus Budget Reconciliation Act of 1989, and

“(D) with respect to calendar years before 1978, in a manner consistent with the manner in which the average of the total wages for each of such calendar years was determined as provided by applicable law as in effect for such years.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 213(d)(2)(B) of such Act (42 U.S.C. 413(d)(2)(B)) is amended by striking “deemed average total wages” and inserting “national average wage index”, and by striking “the average of the total wages” and all that follows and inserting “the national average wage index (as so defined) for 1976,”.

(B) Section 215(a)(1)(B)(ii) of such Act (42 U.S.C. 415(a)(1)(B)(ii)) is amended—

(i) in subclause (I), by striking “deemed average total wages” and inserting “national average wage index”; and

(ii) in subclause (II), by striking “the average of the total wages” and all that follows and inserting

“the national average wage index (as so defined) for 1977.”.

(C) Section 215(a)(1)(C)(ii) of such Act (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking “deemed average total wages” and inserting “national average wage index”.

(D) Section 215(a)(1)(D) of such Act (42 U.S.C. 415(a)(1)(D)) is amended—

(i) by striking “after 1978”;

(ii) by striking “and the average of the total wages (as described in subparagraph (B)(ii)(I))” and inserting “and the national average wage index (as defined in section 209(k)(1))”; and

(iii) by striking the last sentence.

(E) Section 215(b)(3)(A)(ii) of such Act (42 U.S.C. 415(b)(3)(A)(ii)) is amended by striking “deemed average total wages” each place it appears and inserting “national average wage index”.

(F) Section 215(i)(1) of such Act (42 U.S.C. 415(i)(1)) is amended—

(i) in subparagraph (E), by striking “SSA average wage index” and inserting “national average wage index (as defined in section 209(k)(1))”; and

(ii) by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(G) Section 215(i)(2)(C)(ii) of such Act (42 U.S.C. 415(i)(2)(C)(ii)) is amended to read as follows:

“(ii) The Secretary shall determine and promulgate the OASDI fund ratio for the current calendar year on or before November 1 of the current calendar year, based upon the most recent data then available. The Secretary shall include a statement of the fund ratio and the national average wage index (as defined in section 209(k)(1)) and a statement of the effect such ratio and the level of such index may have upon benefit increases under this subsection in any notification made under clause (i) and any determination published under subparagraph (D).”.

(H) Section 224(f)(2) of such Act (42 U.S.C. 424a(f)(2)) is amended—

(i) in subparagraph (A), by adding “and” at the end;

(ii) by striking subparagraph (C); and

(iii) by striking subparagraph (B) and inserting the following:

“(B) the ratio of (i) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the year in which such redetermination is made to (ii) the national average wage index (as so defined) for the calendar year before the year in which the reduction was first computed (but not counting any reduction made in benefits for a previous period of disability).”.

(f) TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—

(1) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(A) in subparagraph (A), by striking “(in a case to which clause (ii)(II) does not apply)”; and

(B) by striking subparagraph (B)(ii) and inserting the following:

“(ii) the individual is now able to engage in substantial gainful activity; or”.

(2) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—

(A) TITLE II AMENDMENTS.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

42 USC 405.

(i) by striking “Section 205(j)(5)” and inserting “Section 205(j)(6)”; and

(ii) by redesignating the paragraph (5) as amended thereby as paragraph (6).

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

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

(ii) by inserting after subparagraph (D) the following:

“(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary’s representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.”.

(3) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5106 RELATING TO COORDINATION OF RULES UNDER TITLES II AND XVI GOVERNING FEES FOR REPRESENTATIVES OF CLAIMANTS WITH ENTITLEMENTS UNDER BOTH TITLES.—

(A) CALCULATION OF FEE OF CLAIMANT’S REPRESENTATIVE BASED ON AMOUNT OF PAST-DUE SUPPLEMENTAL SECURITY INCOME BENEFITS AFTER APPLICATION OF WINDFALL OFFSET PROVISION.—Section 1631(d)(2)(A)(i) of the Social Security Act (as amended by section 5106(a)(2) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1383(d)(2)(A)(i)) is amended to read as follows:

“(i) by substituting, in subparagraphs (A)(ii)(I) and (C)(i), the phrase ‘(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 parenthetical phrase contained therein; and”.

(B) CALCULATION OF PAST-DUE BENEFITS FOR PURPOSES OF DETERMINING ATTORNEY FEES IN JUDICIAL PROCEEDINGS.—

(i) IN GENERAL.—Section 206(b)(1) of such Act (42 U.S.C. 406(b)(1)) is amended—

(I) by inserting “(A)” after “(b)(1)”; and

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

“(B) For purposes of this paragraph—

“(i) the term ‘past-due benefits’ excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223, and

“(ii) amounts of past-due benefits shall be determined before any applicable reduction under section 1127(a).”.

(ii) **PROTECTION FROM OFFSETTING SSI BENEFITS.**—The last sentence of section 1127(a) of such Act (as added by section 5106(b) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 1320a-6(a)) is amended by striking “section 206(a)(4)” and inserting “subsection (a)(4) or (b) of section 206”.

(4) **APPLICATION OF SINGLE DOLLAR AMOUNT CEILING TO CONCURRENT CLAIMS UNDER TITLES II AND XVI.**—

(A) **IN GENERAL.**—Section 206(a)(2) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(2)) is amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph:

“(C) In any case involving—

“(i) an agreement described in subparagraph (A) with any person relating to both a claim of entitlement to past-due benefits under this title and a claim of entitlement to past-due benefits under title XVI, and

“(ii) a favorable determination made by the Secretary with respect to both such claims,

the Secretary may approve such agreement only if the total fee or fees specified in such agreement does not exceed, in the aggregate, the dollar amount in effect under subparagraph (A)(ii)(II).”.

(B) **CONFORMING AMENDMENT.**—Section 206(a)(3)(A) of such Act (as amended by section 5106(a)(1) of the Omnibus Budget Reconciliation Act of 1990) (42 U.S.C. 406(a)(3)(A)) is amended by striking “paragraph (2)(C)” and inserting “paragraph (2)(D)”.

(5) **EFFECTIVE DATE.**—Each amendment made by this subsection shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates, except that the amendments made by paragraph (3)(B) shall apply with respect to favorable judgments made after 180 days after the date of the enactment of this Act.

(g) **ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE CONTRIBUTION AND BENEFIT BASE AND THE EARNINGS TEST EXEMPT AMOUNTS.**—

(1) **ADJUSTMENT OF OASDI CONTRIBUTION AND BENEFIT BASE.**—

(A) **IN GENERAL.**—Section 230(b) of the Social Security Act (42 U.S.C. 430(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) \$60,600, and

“(2) the ratio of (A) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subsection (a) is made to (B) the national average wage index (as so defined) for 1992.”.

(B) **CONFORMING AMENDMENT RELATING TO APPLICABLE PRIOR LAW.**—Section 230(d) of such Act (42 U.S.C. 430(d)) is amended by striking “(except that)” and all that follows through the end and inserting “(except that, for purposes of subsection (b) of such section 230 as so in effect, the

reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to \$45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992.”.

(C) ADJUSTMENT OF CONTRIBUTION AND BENEFIT BASE APPLICABLE IN DETERMINING YEARS OF COVERAGE FOR PURPOSES OF SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.—Section 215(a)(1)(C)(ii) of such Act is amended by striking “(except that” and all that follows through the end and inserting “(except that, for purposes of subsection (b) of such section 230 as so in effect, the reference to the contribution and benefit base in paragraph (1) of such subsection (b) shall be deemed a reference to an amount equal to \$45,000, each reference in paragraph (2) of such subsection (b) to the average of the wages of all employees as reported to the Secretary of the Treasury shall be deemed a reference to the national average wage index (as defined in section 209(k)(1)), the reference to a preceding calendar year in paragraph (2)(A) of such subsection (b) shall be deemed a reference to the calendar year before the calendar year in which the determination under subsection (a) of such section 230 is made, and the reference to a calendar year in paragraph (2)(B) of such subsection (b) shall be deemed a reference to 1992).”.

42 USC 415.

(2) ADJUSTMENT OF EARNINGS TEST EXEMPT AMOUNT.—Section 203(f)(8)(B)(ii) of the Social Security Act (42 U.S.C. 403(f)(8)(B)(ii)) is amended to read as follows:

“(ii) the product of the corresponding exempt amount which is in effect with respect to months in the taxable year ending after 1993 and before 1995, and the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1)) for the calendar year before the calendar year in which the determination under subparagraph (A) is made, to

“(II) the national average wage index (as so defined) for 1992,
with such product, if not a multiple of \$10, being rounded to the next higher multiple of \$10 where such product is a multiple of \$5 but not of \$10 and to the nearest multiple of \$10 in any other case.”.

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall be effective with respect to the determination of the contribution and benefit base for years after 1994.

42 USC 415
note.

(B) The amendment made by paragraph (2) shall be effective with respect to the determination of the exempt amounts applicable to any taxable year ending after 1994.

42 USC 403
note.

(h) TECHNICAL AMENDMENTS TO TITLE XVI.—(1) Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended—

(A) in the 1st subsection (n), by striking “subsection” and inserting “title”; and

(B) by redesignating the 2nd subsection (n) as subsection (o).

(2) Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) by striking “and” at the end of paragraph (9);

(B) by striking the period at the end of the 1st paragraph (10) and inserting “; and”; and

(C) by redesignating the 2nd paragraph (10) as paragraph (11).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 1382b
note.

Approved August 15, 1994.

LEGISLATIVE HISTORY—H.R. 4277 (S. 1560):

HOUSE REPORTS: Nos. 103-506 (Comm. on Ways and Means) and 103-670 (Comm. of Conference).

SENATE REPORTS: No. 103-221 accompanying S. 1560 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Mar. 2, S. 1560 considered and passed Senate.

May 17, H.R. 4277 considered and passed House.

May 23, considered and passed Senate, amended.

Aug. 5, Senate agreed to conference report.

Aug. 11, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Aug. 15, Presidential remarks and statement.



Remarks on Signing the Social Security Independence and Program Improvements Act of 1994

August 15, 1994

Thank you very much. Thank you, Senator Moynihan, Chairman Gibbons, Secretary Shalala. To all the distinguished Members of Congress who are here, especially Senators Mitchell and Dole and the Speaker and to one who is not here, Andy Jacobs, who worked so hard on this endeavor, let me thank you all. Let me especially thank Senator Moynihan, who identified the need to reestablish the Social Security Administration as an independent agency 11 years ago. I was sitting here thinking, when I saw him up here so full of pride that this day had finally come to pass, of two things. First of all, about 8 months ago, Senator Moynihan said to me, "We have a lot of important business to do this year. And we'll have to fight like crazy on all of it. But if you will just come out and say you're for an independent Social Security agency, I think we can do this unanimously. And that would be a very good thing for Congress to do." [*Laughter*] And then I was wondering whether, if we waited 11 years we could be unanimous about every issue that comes before us. [*Laughter*] I want to thank Senator Moynihan for his persistence and guidance and all the others who have worked so hard on this legislation.

When Franklin Roosevelt made a speech to the New York legislature in 1931, he said this: "The success or failure of any government must be measured by the well-being of its citizens." That was the goal that moved him 59 years ago yesterday. On that day, in a ceremony in the Cabinet Room, just behind us, he signed the Social Security Act into law. And that is what guides us today.

With an independent Social Security Administration, we are reinventing our Government to streamline our operations so that we

can serve the American people better. We are strengthening those things which Social Security ought to do and taking precautions to make sure it does not do things which it ought not to do. It is proving that Government can still work to improve people's lives. And now Social Security, we know, will work even better.

For millions of Americans, that signature 59 years ago transformed old age from a time of fear and want to a period of rest and reward. It empowered many American families as well, freeing them to put their children through college to enrich their own lives, knowing that their parents would not grow old in poverty. Nine years ago, thanks to that effort, for the first time in the history of the United States, the elderly had a lower poverty rate than the rest of the population.

In fighting for Social Security and for so much else, President Roosevelt knew that the American people always would have a personal stake in overcoming the status quo when the need was great enough. That is something we should all remember as we go into the next few weeks, as we delay the August recess, as we struggle to come to grips with the challenges of this age, the challenge of crime, the challenge of health care.

These kinds of changes are difficult, but they always have been. In 1935, even Social Security as we know it nearly died in a congressional committee, as Senators considered stripping away the old-age pension. Congress almost left town with this and other critical work unfinished. But they found the grit to work on through the summer of 1935, when they didn't have as much air-conditioning as we have today. And they accomplished so much in that period now known as the Second Hundred Days. President Roosevelt said then that that session of Congress would be regarded as historic for all time.

What we do here today maintains that historic commitment. If we keep focus on the work we are sent here to do, what we do here today can be but the precursor of things that we also can do to benefit the American people that will be historic for all time.

Now I'd like to ask the folks here to join me as I sign this bill. In the beginning, I will for a letter or two at least, use the pen

that President Roosevelt used 59 years ago yesterday.

Thank you very much.

NOTE: The President spoke at 10:40 a.m. in the Rose Garden at the White House. H.R. 4277, approved August 15, was assigned Public Law No. 103-296.

Statement on Signing the Social Security Independence and Program Improvements Act of 1994

August 15, 1994

Today I am pleased to sign into law H.R. 4277, the "Social Security Independence and Program Improvements Act of 1994." Fifty-nine years ago, President Franklin Delano Roosevelt signed the original Social Security Act, creating one of the most important and successful Government programs of all times. With the enactment of H.R. 4277, we are beginning a new chapter in the history of the Social Security program, one which recognizes the program's importance by elevating the stature of the agency responsible for its administration. Once combined with a genuine reform of our health care system, we will have fulfilled the vision of the original architects of the Social Security system to provide Americans protection against the vicissitudes of old age and ill health.

Establishing the Social Security Administration as an independent agency within the executive branch reflects my commitment to maintain the confidence of all Americans in the Social Security program. I sincerely hope that it will reassure those currently paying into the system that they too will receive benefits when they retire. For nearly 60 years, the Social Security Administration has done an admirable job of carrying out its principal mandate: ensuring that Americans receive the Social Security benefits to which they are entitled. The agency's new status recognizes and strengthens our commitment to this tradition of public service.

As I have stated many times, my Administration is committed to "putting people first." Consistent with this philosophy, I issued Executive Order 12862 directing public officials to "embark upon a revolution within the Federal Government . . . to provide service

to the public that matches or exceeds the best service available in the private sector." Establishing an independent Social Security Administration will enhance its ability to meet this goal and provide "world class service" to all Americans.

I also want to highlight that H.R. 4277 includes important provisions designed to strengthen the integrity of the disability programs administered by the Social Security Administration. For example, recipients disabled due to substance abuse will now only receive benefits for a limited time (generally 36 months). These recipients must also undergo appropriate, available treatment.

Finally, I must note that, in the opinion of the Department of Justice, the provision that the President can remove the single Commissioner only for neglect of duty or malfeasance in office raises a significant constitutional question. I am prepared to work with the Congress on a corrective amendment that would resolve this constitutional question so as to eliminate the risk of litigation.

Again, I am pleased to approve H.R. 4277 and to reaffirm my commitment to carrying out the Social Security program for the benefit of our Nation's citizens.

William J. Clinton

The White House,
August 15, 1994.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 17, 1994 (SENT)
(HOUSE)

STATEMENT OF ADMINISTRATION POLICY

(THIS STATEMENT HAS BEEN COORDINATED BY OMB WITH THE CONCERNED AGENCIES.)

H.R. 4277 - Social Security Administrative Reform Act of 1994
(Rep. Jacobs' (D) TN and Ford (D) TN)

The Administration supports making the Social Security Administration (SSA) an independent agency and will work with the Conferees to address several concerns about H.R. 4277, including:

- The governance of the agency by a three-member board whose structure is unwieldy and likely to undermine the legislation's intent to make SSA more effective.
- The lack of budgetary and legislative policy authority afforded to the Executive branch.
- The prescriptive nature of the bill in its designation of required officers, and the distribution of resources between the Department of Health and Human Services and SSA.
- The diminution of the advisory and evaluation roles of the Treasury and Labor Departments in the Social Security program. By removing the Secretary of the Treasury as Chair of the Board of Trustees for the OASDI Trust Funds, H.R. 4277 would reduce Treasury's role in evaluating the financial status of the program. Similarly, by removing the Secretary of Labor as a member of that Board, H.R. 4277 would eliminate Labor's role of representing workers' and retirees' interests.

The Administration looks forward to working with the Conferees to address the above concerns and to create the most viable and efficient independent SSA possible.

The Administration supports strengthening policies that currently apply to Supplemental Security Income (SSI) beneficiaries who are drug addicts and alcoholics (DA&As) and extending those policies to title II disability beneficiaries. The Administration will work with the Conferees to address the following issues regarding DA&A provisions in H.R. 4277:

- Clarification of beneficiaries to whom the policy applies.

- Development of the most effective policy to address the dual goals of protecting expenditure of public funds, while administering programs for people with disabilities fairly and appropriately.

The Administration supports conducting Continuing Disability Reviews (CDRs) in the SSI program and will work with the Congress to ensure that SSA will be able to conduct these CDRs in the most cost-effective and efficient manner possible.

H.R. 4277 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act (OBRA) of 1990. OMB's preliminary scoring estimates of this bill are currently under development.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

JUN 22 1994

The Honorable Harold E. Ford, Chair
Subcommittee on Human Resources
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Administration supports legislation to make the Social Security Administration (SSA) an independent agency, to strengthen policies applicable to Supplemental Security Income (SSI) and Disability Insurance (DI) beneficiaries addicted to alcohol or other drugs, and to make additional changes in Social Security programs.

Independent Agency

We share your commitment to an independent SSA that provides quality services to individuals in all parts of the country. We want to work closely with the Conferees to establish an effective governance structure for the new agency, and to ensure appropriate presidential oversight of budget, legislative and policy matters. It is also important that the legislation establish a framework for the equitable distribution of resources between the Department of Health and Human Services (HHS) and SSA so that all essential services will be well coordinated and provided in a timely and continuous manner.

The Administration looks forward to working with the Conferees to address the issues outlined below as well as other administrative and policy concerns contained in the enclosed side-by-side. We also urge the Conferees to consider the additional administrative costs that may be associated with various provisions of the legislation.

Governance

o The Administration supports a single executive -- a Commissioner appointed by, and responsible to, the President -- to head the new SSA. A single executive is essential to provide SSA with the strong leadership and effective management it needs, and it is consistent with the recommendations made by numerous experts and panels over the years.

o We also support the statutory designation of a presidentially-appointed Deputy Commissioner and Inspector General, together with general authorization for additional executive level

positions. In addition, we believe SSA should be afforded the same flexibility on appointments to Senior Executive Service and other positions that is currently available to other Executive branch agencies throughout the government. This approach provides the authority and flexibility necessary for the efficient management of the agency. It is preferable to the overly prescriptive approach taken by the House in designating several additional specific positions in statute, and in reducing the executive level positions necessary to efficiently administer HHS programs.

o We also have concerns about the establishment of a new advisory board. The Quadrennial Advisory Council and the Board of Trustees have been successful and should be maintained. The Administration would be pleased to work with the Conferees to ensure that the Quadrennial Council includes similar responsibilities as the advisory board, focuses on Old-Age, Survivors and Disability Insurance and SSI issues, and provides bipartisan advice. Further, while we agree with adding the Commissioner to the Board of Trustees, we believe the Secretary of the Treasury should continue as Managing Trustee and Chairman of the Board of Trustees. The Secretaries of Labor and HHS should continue as Board members.

Presidential Oversight

o The Administration strongly urges the Conferees to ensure that the budget, legislative and policy decisions of the new SSA are subject to presidential and executive branch leadership, oversight and review. This is essential to ensure the effective and coordinated administration and funding of federal programs.

We oppose any provisions that may exempt SSA budgetary and appropriations matters -- and thus a huge portion of federal expenditures -- from presidential oversight. Senate provisions concerning the apportionment of contingency funds would also limit the President's ability to oversee executive branch responsibilities, and should be deleted.

Similarly, we oppose House provisions that may exempt SSA legislative and policy initiatives from the review and coordination currently provided to executive branch agencies.

Transition and Implementation

o The Administration firmly believes that the Secretary and the Commissioner, working together, must oversee the transition. We urge the Conferees to develop new provisions that will establish a process to allow the HHS Secretary and SSA Commissioner to carefully assess the needs of both agencies and to identify resources and personnel for transfer.

SSA, for example, now provides many functions that are vital for maintaining timely, effective and continuous services for beneficiaries of the Medicare and Medicaid programs. Final legislation must ensure that beneficiaries of these and other current HHS programs do not experience any disruption in service, and that the two agencies continue their many critical responsibilities. It must further ensure that the basic underlying functions of Medicare enrollment, Medicaid eligibility services, beneficiary information and other matters continue to be performed in the current manner unless and until the Secretary and the Commissioner agree to a different arrangement.

Many additional statutory provisions must be reviewed and revised to ensure continuity and conformity and to ensure that authorities and responsibilities are correctly assigned to the Secretary and Commissioner. For example, SSA's current authority to receive a consolidated appropriation for administrative expenses, including Medicare administrative expenses, specifically must be continued.

o The Administration hopes to work closely with the Conferees to ensure a smooth and efficient transitional period. We urge the Conferees to allow the transition to be completed at such time as the President may determine, but no later than October 1, 1995. We would be pleased to work with the Conferees to develop appropriate reporting requirements to keep Congress informed on the progress of the transition.

Restrictions on Benefits Paid to Substance Abusers

The Administration supports congressional efforts to add restrictions to federal benefits paid to those addicted to alcohol or other drugs. We believe that requirements concerning representative payees and substance abuse treatment should be strengthened and that new sanctions and penalties should be imposed on those who fail to comply. We do have serious concerns, however, about the potential impact of some provisions on the rehabilitation of veterans and other alcohol or drug-addicted beneficiaries, the availability of health care for them, and on Federal, State and local efforts to address homelessness.

o The Administration favors the House language extending SSI mandatory treatment and representative payee requirements to SSDI beneficiaries whose substance abuse is material to the finding of their disability.

We do not believe it is appropriate or cost-effective to extend these requirements to other beneficiaries who would remain disabled in spite of ancillary substance abuse problems.

We would also urge that these restrictions apply to prospective SSDI beneficiaries whose substance abuse is material to their disability, because one-time federal costs to search the records of current beneficiaries in order to identify those with substance abuse problems would range from \$75 million to \$225 million. However, we would apply the provisions to those current Title II beneficiaries who, in the course of a Continuing Disability Review (CDR), are identified as having a primary diagnosis of substance abuse.

o The Administration also agrees that steps are needed to compel these beneficiaries to obtain alcohol and substance abuse treatment for their addictions. We support the strengthened sanction provisions included in the House bill. We also support a new time limit on benefits, but we are strongly opposed to the House provisions which would terminate benefits after 36 months for beneficiaries for whom treatment has not been available.

We believe that the 36 month time limit should be applied to the period of time during which a beneficiary is receiving benefits and has treatment available. An individual must accept a treatment slot as soon as one becomes available and assignment has been made by the Referral and Monitoring Agency. Medicaid and Medicare should continue during periods in which benefits are not provided, and an individual should be able to reapply for benefits if, at any time, (s)he is disabled for reasons other than addiction.

o The Administration favors the House provision which gives preference to an expanded group of organizations to serve as representative payees for these beneficiaries. While we also agree with the House that the fee must be raised to ensure the participation of such organizations, we believe a cap of \$50, indexed for inflation, should be included to guard against excessive fees.

o The Administration supports House provisions which prorate lump sum benefits; disregard the legality of activities considered in determining an individual's ability to engage in substantial gainful activity; and provide demonstration authority.

o We oppose the Senate provision which reduces State flexibility by giving these beneficiaries priority for treatment funded under the Substance Abuse and Mental Health Block Grant. Further, to avoid inadvertently requiring that treatment be administered by an M.D. or Ph.D., we urge the Conferees to replace language referring to "medical or psychological treatment" with "appropriate substance abuse treatment."

Other Issues

We appreciate congressional efforts to make many other improvements in Social Security, Supplemental Security Income and other important federal programs. For example, we support House provisions to strengthen the deterrence of fraud and abuse in the SSI program, particularly the authorization of civil penalties for those who engage in fraudulent schemes to enroll ineligible individuals in the program. We also hope to work closely with the Conferees to determine the best way to study the important issues involved in evaluating disability among children.

We do, however, have concerns about a number of other provisions and hope to discuss the following with the Conferees.

o **Requirements for Telephone Access.** We strongly oppose the House provision that would require SSA to reestablish and maintain the same number of telephone lines and sets as were in place on September 30, 1989, in offices not served by a teleservice center on that date. SSA is conducting a number of studies designed to provide information about how best to configure SSA's telephone system so that we may achieve the goal of providing world class service. To add lines and sets without this information would not represent an efficient or prudent use of trust fund money.

o **Pre-Admission Immigrant and Refugee Medical Information.** The Administration has no objection to obtaining pre-admission immigrant and refugee medical information compiled by the Immigration and Naturalization Service (INS) and the Centers for Disease Control and Prevention (CDC) as included in House provisions, so long as SSA can adjudicate without awaiting INS/CDC response.

o **Requiring CDRs for SSI Recipients.** The Administration also strongly opposes requiring periodic CDRs for all SSI recipients in the same manner as they are required for DI beneficiaries under present law, because they have not proven cost-effective. We believe a more effective approach would be to require a study to determine how such CDRs could be undertaken in a cost-effective manner and report to the Congress on its findings and recommendations.

o **Disability Reviews for Children Reaching Age 18.** We believe it is useful to conduct CDRs for childhood disability recipients, and SSA plans to begin conducting such reviews. Nevertheless, the House provision to require all SSI childhood disability recipients to undergo CDRs between their 18th and 19th birthdays is not cost-effective, and we are strongly opposed to it. We need the administrative flexibility to decide when and under what circumstances we will conduct CDRs for disabled children, so that

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we can direct our reviews to those cases which are most likely to produce program savings.

o **Deemed Approval of Plan for Achieving Self-Support.** The Administration strongly opposes the House provision that would provide that a "completed" plan for achieving self-support (PASS) would be deemed approved if not disapproved by SSA within 60 days. In some cases, SSA needs further information from plan applicants and may further require a vocational evaluation before it can approve a PASS. Therefore, it is not practical to set a time limit.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to Congress.

Sincerely,



Donna E. Shalala

Enclosure

INDEPENDENT AGENCY ISSUES

ISSUE	S. 1560	H.R. 4277	POSITION
Administrative Responsibility	Establish an independent SSA to administer the OASDI and SSI programs.	Same as S. 1560.	Support. A provision for SSA to continue doing Medicare and other workloads, e.g., Black Lung should be added to Sec. 702. (See below.)
Leadership	Commissioner to be appointed by the President within 60 days after enactment, subject to Senate confirmation, to serve for 4-year term coincident with the term of the President or until appointment of qualified successor.	<p>Board appointed by President, subject to Senate confirmation.</p> <p>Bi-partisan 3-member Social Security Board members appointed to 6 year staggered terms and removed only by a Presidential finding of neglect of duty or malfeasance in office.</p> <p>President to consider actively the recommendations of Chairs of Finance and Ways and Means committees.</p> <p>President designates one member to serve as chairperson for a 4-year term.</p>	<p>Support Senate provision without Advisory Board. Quadrennial Advisory Council with suggested modification (see below) and Public Trustees are sufficient for public input and oversight.</p> <p>Strongly oppose House provision for 3-member board to run independent SSA.</p> <p>--No strong leadership when executive and administrative responsibilities are shared.</p>

<p>Leadership (Cont-d)</p>	<p>Commissioner compensated at level I of Executive Schedule</p> <p>Commissioner would:</p> <p>--Exercise all powers of SSA and discharge all duties.</p> <p>--Prescribe rules and regulations subject to government-wide rulemaking procedures.</p>	<p>Board members compensated at level II of Executive Schedule.</p> <p>Social Security Board would:</p> <p>--Establish the independent SSA and oversee its efficient and effective operation.</p> <p>--Govern by regulation the OASDI and SSI programs.</p> <p>Same as S. 1560.</p>	<p>--Experts agree that since it is difficult to maintain a clear dividing line between policy and administration, few boards are willing to delegate responsibility for day-to-day management and operations to a chief operating officer or to refrain from micromanaging.</p> <p>--Chief operating officer might feel constrained to obtain the consensus of Board members before taking significant actions.</p> <p>Support Senate, including level I ES compensation.</p> <p>Prefer Senate.</p> <p>Support.</p>
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<p>Leadership (Cont-d)</p>	<ul style="list-style-type: none"> --Establish, alter, consolidate, or discontinue organizational units or components except for Deputy Commissioner and Inspector General. --Assign duties, delegate, and authorize successive redelegations of authority for others to act or render decisions. --Control all personnel and activities of SSA. --Appoint additional officers and employees as necessary. --Procure services of experts and consultants. --Delegate Deputy Commissioner duties. --Determine which HHS employees transfer to SSA. --Prepare comprehensive work force plan as basis for request for congressional appropriations for staffing and personnel. 	<ul style="list-style-type: none"> --Establish, alter, consolidate, or discontinue organizational units or components, except for Executive Director, Deputy Director, General Counsel, Beneficiary Ombudsman, Inspector General, and Chief Administrative Judge. Same as S. 1560. --Appoint Executive Director responsible for daily operations. Same as S. 1560. Same as S. 1560. --Prepare an annual SSA budget which is submitted to Congress without revision by the President, together with President's budget for SSA. --Study and recommend to the President and Congress the most efficient methods of providing economic security through OASDI, SSI, and related programs. 	<p>Prefer Senate.</p> <p>Support.</p> <p>Prefer Senate.</p> <p>Support.</p> <p>Support.</p> <p>Oppose both House and Senate. See page 9, "Transfers to Independent SSA."</p> <p>Strongly oppose House. Would limit the President's ability to oversee the operation of Executive Branch agencies.</p> <p>Oppose House. SSA performs this function now and would continue to do so.</p>
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<p>Leadership (Cont-d)</p>	<p>--Serve as member of OASDI Boards of Trustees.</p> <p>--Commissioner and Secretary of HHS shall consult regularly to ensure: (1) coordination of OASDI and SSI with Medicare and Medicaid, and (2) adequate provision of public information on Medicare and Medicaid.</p>	<p>--Establish policy and devise long-term plans to promote and maintain effective implementation of programs.</p> <p>--Study and recommend to the President and Congress OASDI and SSI legislation and administrative policy.</p> <p>--Provide the President and Congress ongoing actuarial and other analyses.</p> <p>--Conduct policy analysis and research.</p> <p>--Constitute 3 of the members of the Board of Trustees; chairperson of Board will chair the Board of Trustees.</p> <p>--Serve as ex-officio members of OASI and DI trust fund Board of Trustees.</p> <p>No provision.</p>	<p>Oppose House. SSA performs these functions now and would continue to do so.</p> <p>Strongly oppose House. Support Senate.</p> <p>Prefer Senate with suggested language (under development) to ensure continuing functions and roles for Medicare, Medicaid, and other programs in order to ensure an adequate level of service to the public in these program areas.</p>
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<p>Leadership (Cont-d)</p>	<p>7-member bipartisan Social Security Advisory Board to meet at least 6 times each year and to advise the Commissioner on program policies and operations.</p> <p>Board would consist of 3 members appointed by the President, subject to Senate confirmation (no more than 2 from same political party), 2 members from different political parties appointed by the President pro tempore of the Senate, and 2 from different political parties by the Speaker of the House.</p> <p>President's initial members to serve terms of 2, 4, and 6 years. Senate members, 4 and 6 years, and House members 3 and 5 years. Subsequent members serve staggered 6 year terms. Chairman designated by the President with term coincident with the term of the President.</p>	<p>No provision for Advisory Board. Retains Quadrennial Advisory Council.</p>	<p>Strongly oppose Advisory Board. Build upon current structure. Quadrennial Advisory Council has been successful and in combination with the Public Trustees and Congressional oversight mitigates need for a new body. Willing to work with conferees to ensure that Quadrennial Council includes similar responsibilities as advisory board and focuses on OASDI and SSI issues and provides sufficient bipartisan advice. (Establish new Advisory Council for Medicare--see relevant comment under "Miscellaneous" section.)</p> <p>Expand term of Quadrennial Advisory Council to encompass entire four years of Presidential term. After producing quadrennial report, Advisory Council would meet at call of Commissioner to work on designated matters.</p>
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<p>Leadership (Cont-d)</p>	<p>Advisory Board would:</p> <ul style="list-style-type: none"> --Advise the Commissioner on OASDI and SSI policies. --Analyze/recommend how OASDI and SSI programs, supported by other public and private systems, can most effectively ensure economic security. --Study/recommend how OASDI, SSI, and other programs can coordinate with health security programs. --Recommend to the President and Congress policies to ensure short- and long-range solvency of OASDI program. --Recommend to the President candidates for Commissioner and Deputy Commissioner. --Review/assess quality of SSA's public service. --Review/recommend OASDI and SSI policies and regulations. 		<p>Expand Quadrennial Advisory Council's responsibilities to specifically include:</p> <ul style="list-style-type: none"> --Advise the Commissioner on OASDI and SSI policies. --Analyze/recommend how OASDI and SSI programs, supported by the public and private systems can most effectively ensure economic security. --Study/recommend how OASDI, SSI, and other programs can coordinate with health security programs. --Recommend to the President and Congress to ensure short- and long-range solvency of OASDI program.
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<p>Leadership (Cont-d)</p>	<p>--Increase public understanding of Social Security.</p> <p>--In consultation with the Commissioner, review the development and implementation of long-range research and program evaluation plan.</p> <p>--Review/assess major social security studies done by others.</p> <p>--Conduct other appropriate reviews and assessments.</p> <p>SES-level Staff Director appointed by Board with additional staff necessary to carry out functions.</p>	<p>No provision for staff director.</p>	<p>--At request of Commissioner, review/assess quality of SSA's public service, operational policies and regulations, the agency's research and program evaluation plans, public understanding of Social Security, and other appropriate reviews and assessments.</p> <p>--Review/assess major Social Security studies done by others.</p> <p>Oppose Senate provision.</p>
<p>Establishment of Agency Offices</p>	<p>Establishes the following positions:</p> <ul style="list-style-type: none"> - Commissioner - Deputy Commissioner - Inspector General. 	<p>Establishes the following positions:</p> <ul style="list-style-type: none"> - Executive Director - Deputy Director - General Counsel - Beneficiary Ombudsman - Inspector General - Chief Administrative Law Judge. 	<p>Strongly oppose House. Establishing in law so many agency offices (e.g., Beneficiary Ombudsman and Chief ALJ) could impose an unnecessary requirement and could interfere with the Agency's ability to organize itself effectively. Support Senate provision with language to provide for a Chief Financial Officer and amend CFO Act.</p>

<p>Appointment Authority</p>		<p>Social Security Board appoints Executive Director, General Counsel, Beneficiary Ombudsman, Chief Administrative Law Judge. Executive Director appoints Deputy Director.</p>	<p>Oppose House.</p>
<p>Agency Staffing</p>	<p>OPM to authorize substantially greater number of SES positions to the extent that such positions are specified in a comprehensive workplan; at no time will authorized number of SES positions be less than the number that exists immediately before date of enactment.</p> <p>No more than 10 full-time positions excepted from competitive service for confidential or policy-making duties.</p>	<p>OPM to authorize a greater number of SES positions than the number that exists immediately before enactment; number of SES positions to be specified in comprehensive workplan.</p> <p>Additional ES positions authorized: 6 at Level IV and 6 at Level V. (With a commensurate reduction in such positions in HHS.)</p>	<p>Oppose both House and Senate provisions as drafted because they: (1) restrict the President's authority to oversee the Executive Branch, (2) are overly prescriptive, and (3) inappropriately reduce the number of ES positions in IIIIS. Instead, the Administration believes the final bill needs only to authorize additional ES positions for SSA.</p>

<p>SSA Budget</p>	<p>Contingency funds apportioned when contingency occurs; as determined by Commissioner (reported to Congress).</p> <p>Authorize that appropriations for administrative expenses may be provided biennially.</p>	<p>Appropriations for personnel and staffing expenses based on comprehensive workplan submitted by Board.</p>	<p>Strongly oppose Senate. Would limit the President's ability to oversee the operation of Executive Branch agencies.</p> <p>Biennial appropriation for administrative expenses is a desirable objective, but could create problems if SSA were the only agency with biennial appropriations.</p> <p>Oppose House. Provision could be construed as limiting the President's ability to oversee the operation of Executive Branch agencies.</p>
<p>Transfers to Independent SSA</p>	<p>All functions related to title II and title XVI programs and title II and XVI activities carried out by HHS.</p> <p>Personnel performing SSA-related functions on date of enactment and day before effective date.</p>	<p>Same as S. 1560.</p> <p>Personnel (other than ALJs) performing SSA-related functions, as considered appropriate by the Board in consultation with Secretary of HHS.</p>	<p>Support.</p> <p>Strongly oppose both House and Senate. Support alternative to both House and Senate provisions that allows the Secretary of HHS and Commissioner of SSA to decide cooperatively on positions and personnel to transfer to SSA, related to transfer of selected functions.</p>

Transfers to Independent SSA (Cont-d)	Personnel not performing SSA-related functions on date of enactment, but so performing on day before effective date, may be transferred after Commissioner and Secretary consult.	Number of ALJs necessary to carry out functions transferred, as determined by Board and Secretary of HHS.	Same as above.
	<p>Assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used for SSA functions.</p> <p>Unexpended funds transferred to SSA must be used for the purposes for which they were originally authorized and appropriated.</p>	<p>Same as S. 1560.</p> <p>Same as S. 1560.</p> <p>Jobs, grades, and compensation of HHS employees transferred to SSA protected for 1 year after transfer or July 1, 1994, whichever is later.</p>	<p>Support.</p> <p>Support.</p> <p>Generally prefer House, but clarify employee protection provisions and limit them only to those employees transferred to SSA.</p>

<p>Transition</p>	<p>Transition Director, compensated at Executive Level IV, to be appointed by President within 30 days after enactment.</p> <p>Transition Director would conduct activities to ensure orderly transition to independent agency; consult regularly with OMB.</p> <p>Transition Director would, after appointment of Commissioner, conduct such activities at direction of Commissioner.</p> <p>Expenditures for transition would be made from OASI and DI trust funds.</p>	<p>Executive Director, Deputy Director, General Counsel, Inspector General, Beneficiary Ombudsman, and Chief ALJ may enter office any time after enactment.</p> <p>When full complement of Social Security Board is on duty, regulations will provide for orderly transfer of proceedings before Secretary of HHS to Social Security Board.</p> <p>Commissioner as of July 1, 1994, to carry out duties of Board and Executive Director if all Board members have not entered on duty by then.</p> <p>Funds available to any HHS official or component whose functions are transferred to the independent SSA may be used, with OMB approval, to pay compensation and expenses until funds for that purpose become available.</p>	<p>Oppose. Commissioner of Social Security and Secretary of HHS working jointly can adequately oversee transition.</p> <p>Oppose.</p> <p>Oppose. Commissioner of Social Security should perform these functions.</p> <p>Oppose. Commissioner of Social Security should perform these functions.</p> <p>Prefer House but need to clarify intent of the provision.</p>
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<p>Transition (Cont-d)</p>	<p>Provides interim authority for the appointment and compensation of officers whose positions are established under this bill.</p> <p>All orders, determinations, rules/regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations in effect at time of transition would remain in force until modification or termination in accordance with law.</p>	<p>Same as S. 1560.</p>	<p>Prefer Senate.</p> <p>Support.</p>
	<p>All proceedings, suits, penalties, and judicial reviews pending before the Secretary of HHS immediately before SSA becomes independent would be transferred to SSA.</p> <p>Transition Director and Commissioner report on the status of the transition and any proposed significant internal restructuring or management improvements within 120 days of date of enactment.</p>	<p>Same as S. 1560.</p> <p>No provision.</p>	<p>Support.</p> <p>Support with change that Commissioner of Social Security and Secretary would prepare the report. (Also see discussion under "Effective Date".)</p>

<p>Miscellaneous</p>	<p>Appropriate language changes are made to Social Security Act, U.S. Code, Internal Revenue Code, Food Stamp Act of 1977, and Inspector General Act of 1978 as applicable to new independent agency status.</p> <p>Establishes procedures for:</p> <ul style="list-style-type: none"> --Commissioner to determine the portion of costs of administering titles II and XVI which should have been borne by general fund, OASI trust fund and DI trust fund. --Secretary of HHS to determine the portion of costs of administering title XVIII which should have been borne by general fund, HI trust fund, and SMI trust fund. --After which Commissioner and Secretary jointly certify to Managing Trustee amounts to be transferred among the trust funds and the general fund. 	<p>Appropriate language changes are made to Social Security Act as applicable to new independent agency status.</p>	<p>Prefer Senate.</p> <p>Support an equitable compromise in which the Secretary and the Commissioner jointly share in the determination of the cost allocation methodology and procedures.</p>
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<p>Miscellaneous (Cont-d)</p>	<p>Removes Secretary of Labor from Board of Trustees.</p> <p>Any references in law to HHS, Secretary of HHS, and other officers or employees of HHS which deal with OASDI and SSI functions to be considered a reference to SSA or the appropriate entity within SSA.</p> <p>With respect to Medicare hearings and appeals under section 205 of the Social Security Act, references to the Commissioner will be deemed to be references to the Secretary.</p>	<p>Also removes Treasury as Chair of OASDI Board.</p> <p>Same as S. 1560.</p>	<p>Strongly oppose. Secretary of Treasury should continue as Board chair because of Treasury's critical role in evaluating the financial status of the Trust Funds. Secretary of Labor provides needed perspective on relationship of Social Security and labor force and should continue as a member of the Board.</p> <p>Support.</p> <p>Support Senate with modification to make explicit that, while the Secretary holds the ultimate responsibility for Medicare-related hearings, SSA will continue to perform the hearings function through its ALJ corps unless and until the Secretary and Commissioner agree upon a different arrangement.</p>
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Miscellaneous (Cont-d)	Abolishes Quadrennial Advisory Council on Social Security and establishes an Advisory Council on Hospital and Supplementary Medical Insurance.		Oppose abolishing existing Quadrennial Advisory Council. Its Medicare responsibilities should be transferred to a newly established Advisory Council for Medicare with modified membership provisions and other technical changes to reflect its mission.
	No provision.	No provision.	The Administration is still reviewing whether there are Privacy Act issues and how best to deal with them.
	No provision.	No provision.	Technical change needed to ensure continuation of SSA responsibilities for Coal Industry Retiree Health Benefit Act.
Effective Date	180 days after the date of enactment or, if earlier, date designated by the President. Transitional rules effective on date of enactment.	In general, October 1, 1995; the change in the composition of the Board of Trustees of the OASDI Trust Funds is effective upon entry into office of all initial members of the Social Security Board; transitional rules and interim authority for the Commissioner of Social Security are effective upon enactment; and any new spending authority is effective for any fiscal year only as provided in advance in appropriation.	Strongly support House date of 10/1/95, but modify to allow President to make effective earlier. Would agree to Managers language indicating that the Secretary and the Commissioner should provide updates to Congress at reasonable intervals on the progress of the transition.

Social Security Drug And Alcohol Issues

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
<p>Target Population & Treatment</p>	<p>[Follows the order of the Senate bill. Note that both bills include parallel provisions for Title II and Title XVI.]</p> <p>SSDI and SSI beneficiaries whose disability is based "in whole or in part" on substance abuse are required to undergo "any medical or psychological treatment" appropriate for their condition. 302(a)(1) and 302(b)</p> <p>No comparable provision.</p> <p>Beneficiary must demonstrate compliance at 12 month CDR.</p>	<p>Title II and SSI beneficiaries with alcoholism or drug addiction that is material to the finding of disability must participate in appropriate "medical or psychological" treatment. 201(a)(1)A and 201(a)(3)(A).</p> <p>A study would be conducted regarding whether requirements can/should be extended to additional substance abusing beneficiaries, whose addictions are not material to the disability finding. A number of other issues would be studied as well. 201(a)(1)(C)</p> <p>See discussion in CDR section regarding Herger amendment.</p>	<p>Prefer "material" language with a feasibility study regarding others because we are not sure how additional beneficiaries would be identified. See also section below on application to current Title II beneficiaries.</p> <p>Prefer the Senate language defining beneficiaries subject to these provisions which would not include disabled widows and dependents' benefits.</p> <p>Prefer to change "medical or psychological treatment" language (here and elsewhere in the bill) to "appropriate substance abuse treatment". Current language may inadvertently require that treatment be under the supervision of an M.D. or Ph.D.</p> <p>A CDR is not an effective way to measure compliance. See full discussion in "CDR" section below.</p>

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
Referral and Monitoring	<p>The Secretary shall provide for appropriate monitoring and testing of all DA&A beneficiaries. 302(a)(1) and 302(b)</p> <p>The Secretary may retain jurisdiction of cases allowed at the hearing level to provide for appropriate monitoring and testing.</p> <p>Annual report to Congress on monitoring activities.</p> <p>Representative payees and RMAs shall report any noncompliance to the Secretary.</p> <p>No similar provision</p>	<p>Similar provision 201(a)(3)(A)</p> <p>No similar provision</p> <p>Similar provision 201(a)(3)(A)</p> <p>RMA responsibilities include reporting noncompliance. 201(a)(3)(A) and 201(b)(3)(B).</p> <p>Require regulations defining appropriate treatment, compliance and expected progress. 201(a)(3)(A) and 201(b)(3)(B)</p>	<p>Oppose Senate provision regarding maintaining jurisdiction. Monitoring is not an appropriate role for an Administrative Law Judge.</p> <p>Prefer House language but have no objection to the Senate version.</p> <p>Prefer the Senate position. While we intend to promulgate regulations, a legislative mandate to do so may interfere with our ability to establish guidelines that can be enforced prior to final regulations.</p>
Continuing Disability Reviews	<p>Beneficiary must demonstrate treatment compliance at a 12-month CDR. A 24 month CDR is required at which point benefits may be extended. At 36 months benefits are terminated unless the individual is found to be disabled by a separate condition.</p>	<p>Herger amendment requires CDRs be conducted for SSI beneficiaries as are required in SSDI (i.e. every 3 years).</p>	<p>Yearly CDRs as required in the Senate bill are not an efficient or effective way to measure compliance. Prefer to drop this and rely on the RMA for monitoring and other progress reports. CDRs should also be conducted at the recommendation of the RMA that the beneficiary has sufficiently recovered.</p>

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
Sanctions	<p>In cases of non-compliance benefits are suspended until compliance has been re-established, "including compliance with any additional requirements determined to be necessary by the Secretary." 301(a)(1) and 302(b)</p> <p>Periods of suspension for non-compliance shall be taken into account with regard to CDR timing, but not regarding 36 month time limit.</p> <p>No similar provision.</p> <p>No similar provision.</p>	<p>Benefits are suspended for noncompliance with treatment. Benefits shall not be reinstated until the beneficiary has complied with treatment for a set time period (2 months, 3 months or 6 months for first, second and subsequent instances of noncompliance). 201(a)(3)(A)</p> <p>Suspension time counts toward time limit. No provision regarding suspension time and CDRs.</p> <p>Termination occurs if a beneficiary has been suspended for 12 consecutive months.</p> <p>Medicaid and Medicare benefits are continued during periods of suspension. 201(a)(3)(B) and 201(b)(3)(C)</p>	<p>Prefer House sanction scheme.</p> <p>Prefer Senate position that suspension time should not count toward a time limit. See also CDR section above.</p> <p>Favor House provision.</p> <p>Favor House provision providing continuation of health benefits.</p>

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
Time Limit	A maximum of 36 months of benefits unless at the end of the 36th month the individual is disabled without regard to substance abuse. 302(a)(1) and 302(b)	Benefits are to be terminated after 36 months of elapsed time. (Kleczka amendment)	We want to ensure the time limit provision allows sufficient opportunity for rehabilitation. We believe any time limit should include only that time in which treatment is available to the beneficiary. An individual must accept a treatment slot as soon as one becomes available and assignment is made by the RMA. Time prior to an RMA's assessment and referral should not count, nor should time on waiting lists for treatment or in which the RMA is unable to locate appropriate treatment for the individual. In addition, time spent under sanction (and thus not receiving benefits) should not count against the time limit. All time that an individual is in treatment would count against the 36 months. At or prior to the end of this time period there should also be the opportunity for the recipient to reapply for benefits if the individual is disabled by something other than addiction.

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
Representative Payee	<p>Any benefit payments, including lump sum payments, must be paid through a qualified organization acting as representative payee. 302(a)(1) and 302(b)</p> <p>Qualified organization is the same as in current law (non-profit created before 1988) plus state or local government agencies.</p>	<p>Preference is given to organizations to act as representative payees. Lump sum retroactive payments are to be paid in intervals over time. 201(a)(2)(A) and 201(b)(2)(A) as amended.</p> <p>The definition of qualified organization is expanded to include non-profits created after 1988, plus state and local government agencies. 201(a)(2)(A) and 201(b)(2)(A)</p> <p>Fee is raised to 10% of the SSI, SSDI or combined benefit check. 201(a)(2)(B) and 201(b)(2)(B) as amended.</p>	<p>Favor the House provision providing preference rather than requirement for organizations.</p> <p>Favor House position regarding prorating lump sum benefits.</p> <p>Prefer House expansion of eligible organizations.</p> <p>Higher fee from House bill preferred, but would like to retain the \$50 cap (maybe indexed to address House concern). Without the cap the fees could be quite high-- over \$100 per month for some Title II beneficiaries.</p>
Effective Date and Application to Current Title II Beneficiaries	<p>Effective for determinations made beginning 90 days after enactment. 302(c)(1)</p> <p>During the 3 years after enactment current beneficiaries will be phased in. 302(c)(2)</p>	<p>180 days after enactment. 291(c)</p> <p>Current beneficiaries are included immediately. Representative payee requirements apply to those whose substance abuse is "material" to the disability finding while treatment requirements apply to those with a "primary diagnosis" of substance abuse.</p>	<p>Prefer 180 days.</p> <p>Prefer to apply these provisions prospectively to Title II beneficiaries because these individuals are not currently identified and it would be costly and time consuming to identify them. However, we would apply the provisions to those current title II beneficiaries who, in the course of a CDR, are identified as having a primary diagnosis of substance abuse. At the very least we would like both treatment and representative payee requirements to apply only to those with primary diagnoses of substance abuse.</p>

ISSUE	S. 1560	H.R. 4277 as amended	Administration Conference Position
Miscellaneous	<p>SSI and SSDI DA&As shall be given priority in treatment supported by the SAMHSA block grant. 303</p> <p>Requires the establishment of an RMA in each state within one year. 304</p> <p>"If an individual engages in a criminal activity to support substance abuse, any proceeds derived from such activity shall demonstrate such individual's ability to engage in substantial gainful activity." 305(a) and 305(b)</p> <p>No similar provision</p>	<p>No similar provision</p> <p>Similar provision 201(a)(3)(C) and 201(b)(3)(C)</p> <p>Clarifies that both legal and illegal activity are considered in determining substantial gainful activity. 201(a)(4)(A) and 201(b)(4)</p> <p>Creates demonstration authority. 201(d)</p>	<p>Oppose priority in block grant because it restricts state flexibility.</p> <p>No position. SSA expects to do this without legislative directive.</p> <p>Prefer House provision on SGA. We have due process concerns with the Senate provision.</p> <p>Favor House provision providing demonstration authority.</p>

NOTE: The Railroad Board states that enactment of the substance abuse amendments would result in the transfer of the costs of paying Tier I benefits to individuals with substance abuse problems from the Social Security Trust Funds to the Railroad Retirement Account, with no savings for the Federal Government. Amending the Railroad Retirement Act in accordance with the Social Security Act amendment would generate savings.

OASDI Issues	House	Senate	Position
Issuance of Physical Documents to Social Security Trust Funds	<p>H.R. 4277 requires that each obligation issued by the Department of the Treasury for purchase by the Social Security trust funds (including those already issued) be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness, rather than simply by a book entry.</p> <p>Requires interest payments and proceeds from the sale or redemption of trust fund holdings to be paid by checks drawn on the general fund of the Treasury.</p> <p>Effective 60 days after enactment.</p>	None.	Strongly oppose. Administratively inefficient and costly.
Requirements for Telephone Access	<p>H.R. 4277 would require that, in Social Security offices not served by a teleservice center on September 30, 1989, SSA reestablish and maintain the same number of telephone lines and telephone sets as were in place on that date. SSA could not reduce 800-number service to carry out this requirement.</p> <p>Effective 90 days after enactment.</p>	None.	Strongly oppose. SSA is conducting studies to improve telephone service; adding lines and sets before study results are available is improper use of trust funds.
Treatment of Election Workers	<p>H.R. 4277 would increase from \$100 to \$1,000 a year the amount an election worker must be paid for the earnings to be covered under Social Security or Medicare, and index the amount thereafter.</p> <p>Effective January 1, 1995.</p>	None.	Oppose, but would support a more moderate increase.
Use of SSNs for Jury Selection	<p>H.R. 4277 would allow State and local governments and Federal district courts to use Social Security numbers to eliminate duplicate names and convicted felons from jury selection lists.</p> <p>Effective upon enactment.</p>	<p>None.</p> <p>However, in the 102nd Congress, H.R. 11, as passed by the Senate, contained a similar provision. (H.R. 11 was vetoed.)</p>	Do not oppose. Expands use of SSN, but for valid Government purpose.

* These provisions need to be reviewed in the context of Independent Agency to ensure authorities are properly designated.

OASDI Issues	House	Senate	Position
Social Security Coverage of Police and Firefighters	<p>H.R. 4277 would give all States, rather than only those now specifically authorized to do so, the option to extend Social Security coverage to police officers and firefighters who are under a retirement system.</p> <p>Effective upon enactment.</p>	None.	Support. Facilitates extension of coverage.
Social Security Coverage of Certain Ministers	<p>H.R. 4277 would exempt certain ministers who were American citizens and residents of Canada from liability for unpaid Social Security taxes and related penalties for 1979 through 1984. The provision would provide relief for ministers from double taxation (taxation under both the U.S. and Canadian social insurance systems on the same work) for years just prior to the U.S. totalization agreement with Canada, which eliminated such double taxation.</p> <p>Ministers would have 180 days following publication of pertinent IRS regulations to apply for the exemption.</p>	None.	Do not oppose. Insignificant cost.
Totalize Windfall Elimination Provision (WEP)	<p>H.R. 4277 would repeal the application of the WEP (which reduces benefits to an individual who also receives a pension from work not covered by the U.S. Social Security system) in certain cases involving totalization.</p> <p>H.R. 4277 would disregard the WEP (1) in computing the regular U.S. benefit of a person who receives a foreign totalization benefit that includes U.S. employment, provided he receives no other pension based on noncovered employment and (2) in computing any U.S. totalization benefit.</p> <p>Effective for benefits for months after January 1995.</p>	None.	Support. Addresses equity issue for certain beneficiaries.

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OASDI Issues	House	Senate	Position
Treatment of Certain Military Reservists Under Social Security	<p>H.R. 4277 would exclude from the application of both the government pension offset (which reduces the spouse's or surviving spouse's benefit of a person who also receives a government pension based on his or her own work in employment not covered by Social Security) and WEP military pensions that are based, at least in part, on noncovered military reserve duty after 1956 and before 1988, thus conforming treatment of reservists with that of other military retirees.</p> <p>Effective for benefits for months after January 1995.</p>	None.	Support. Addresses equity issue for certain beneficiaries.
Treatment of Certain Family Maximum Benefit Cases	<p>H.R. 4277 would guarantee the use of the maximum family benefit (MFB) (the limit on the total amount of benefits which may be paid to the worker and his or her dependents) in effect in the last month of a worker's prior entitlement to disability benefits for the purpose of determining the MFB under a subsequent period of entitlement. (The worker's basic benefit amount is already guaranteed.)</p> <p>Effective for beneficiaries who became reentitled or died (after previously having been entitled) after January 1995.</p>	None.	Support. Addresses equity issue for certain beneficiaries.

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OASDI Issues	House	Senate	Position
Facility of Payment	<p>H.R. 4277 would repeal the facility-of-payment provision, under which deductions are not now imposed against the benefits of an auxiliary beneficiary to whom they otherwise would apply, if the MFB would continue to be payable to other auxiliaries living in the same household. Under the amendment, deductions would be made for the beneficiary to whom they apply, and the withheld benefits would be redistributed to other entitled auxiliaries living in the same household as the auxiliary who is subject to deductions.</p> <p>Effective for benefits payable for months after December 1995.</p>	<p>None.</p> <p>However, in the 102nd Congress, H.R. 11, as passed by the Senate, contained a similar provision. (H.R. 11 was vetoed.)</p>	<p>Support. Administrative simplification.</p>
Rounding Distortion in Contribution and Benefit Base	<p>H.R. 4277 would designate 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts would no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.)</p> <p>Effective for the contribution and benefit base beginning in 1995 and for the exempt amounts for taxable years ending after 1994.</p>	<p>None.</p>	<p>Support. Results in more precise calculations of automatic increases.</p>
Use of Social Security Information for Epidemiological Research	<p>H.R. 4277 would require SSA, on a reimbursable basis, to disclose information showing whether an individual is alive or deceased, if it is needed for epidemiological or similar research that the Secretary of Health and Human Services determines has reasonable promise of contributing to national health interests. Requestors would have to agree to safeguard and limit re-release of the information.</p> <p>Effective upon enactment.</p>	<p>None.</p>	<p>Support. Provides specific authority to disclose information to facilitate health research.</p>

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OASDI Issues	House	Senate	Position
Use of Symbols, Emblems or Names	<p>H.R. 4277 would broaden present-law deterrents against misleading mailings about Social Security and Medicare by providing that:</p> <ul style="list-style-type: none"> ■ Specific written authorization from SSA would be required for a person to reproduce, reprint, or distribute for a fee any SSA form, application, or other SSA publication; ■ A disclaimer on a mailing would not provide a defense against misleading mailing violations; ■ Each piece of mail in an illegal mass mailing would constitute a violation; ■ Names, letters, symbols, and emblems of HHS would be added to the items protected by the misleading advertising prohibitions; and ■ The \$100,000 annual cap on civil penalties that may be imposed for misleading advertising activities would be removed, and penalties collected would be deposited in the OASI Trust Fund. <p>Effective upon enactment.</p>	<p>None.</p> <p>However, in the 102nd Congress, H.R. 11, as passed by the Senate, contained a similar provision. (H.R. 11 was vetoed.)</p>	<p>Strongly support. Protects public against misleading advertising.*</p>
Unauthorized Disclosure of Social Security Information	<p>H.R. 4277 would make unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act a felony. Each violation would be punishable by a fine of up to \$10,000, imprisonment for up to 5 years, or both.</p> <p>Effective upon enactment.</p>	<p>None.</p> <p>However, in the 102nd Congress, H.R. 11, as passed by the Senate, contained a similar provision. (H.R. 11 was vetoed.)</p>	<p>Support. Discourages unauthorized disclosures.</p>

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OASDI Issues	House	Senate	Position
Filing Annual Earnings Reports	<p>H.R. 4277 would increase from 3 to 4 months the additional time that an individual could be granted to file an annual earnings report.</p> <p>Effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.</p>	None.	Do not oppose. Results in consistency with income tax time limits.
DI Demonstration Projects	<p>H.R. 4277 would extend for 3 years (through June 10, 1996) authority for the Secretary to waive Social Security or Medicare benefit requirements in connection with demonstration projects and studies designed to promote the objectives or facilitate the administration of the Social Security disability insurance program and encourage disabled beneficiaries to return to work.</p> <p>Effective upon enactment.</p>	None.	Support, but prefer modification to provide permanent demonstration authority, as provided under the SSI program.
Cross-Matching SSNs and Employee Identification Numbers (EINs) of the Department of Agriculture	<p>H.R. 4277 would permit the Department of Agriculture to disclose retail operators' names, Social Security numbers, and EINs to other Federal agencies for the purpose of investigating food stamp fraud and violations of other Federal laws.</p> <p>Effective upon enactment.</p>	None.	Do not oppose. Expands SSN use, but for valid Government purpose.
Use of SSNs for Workers' Compensation Claims	<p>H.R. 4277 would permit the Department of Labor to use Social Security numbers as the claim identification number for workers' compensation claims.</p> <p>Effective upon enactment.</p>	None.	Do not oppose. Expands SSN use, but for valid Government purpose.

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OASDI Issues	House	Senate	Position
Social Security Coverage of Certain Federal Employees	<p>H.R. 4277 would continue the Social Security coverage of Federal civilian employees temporarily assigned to an international organization, regardless of whether the international organization is within or outside the United States. Employees would pay their share of the Social Security tax on their earnings and the loaning agency would pay the employer's share of the tax.</p> <p>Effective for services performed after the calendar quarter following the date of enactment.</p>	None.	Support. Fills coverage gaps for certain workers.
Extend FICA Exemption to Certain Aliens	<p>H.R. 4277 would reinstate the exemption from FICA taxes for individuals participating in short-term cultural exchanges that was inadvertently eliminated after the recategorization of visas under the Immigration and Nationality Act of 1990, because no conforming change was made to Social Security law.</p> <p>Effective with the calendar quarter following the date of enactment.</p>	None.	Oppose.
Study of the Rising Costs of DI Benefits	<p>H.R. 4277 would require the Secretary to conduct a study of the underlying social, economic, demographic, programmatic, and other trends responsible for recent increases in DI program costs.</p> <p>The report is due by December 31, 1994 to the House Committee on Ways and Means and the Senate Committee on Finance. (Note similar report requirement in H.R. 4278.)</p>	None.	Do not oppose.

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OASDI Issues	House	Senate	Position
<p>Commission on Childhood Disability</p>	<p>H.R. 4277 would require the Secretary to appoint, by January 1, 1995, a 9 to 15-member Commission on the "Evaluation of Disability in Children." The Commission, in consultation with the National Academy of Sciences, is to conduct a study on the effect of the current Supplemental Security Income definition of disability as it applies to children under the age of 18 and their receipt of services, including the appropriateness of an alternative definition. The Commission would also examine the feasibility of providing non-cash benefits to children; the feasibility of prorating <u>Zebley</u> lump sum retroactive benefits or holding them in trust; the extent to which SSA can involve private organizations to increase social services, education, and vocational instruction aimed at promoting independence and the ability to engage in substantial gainful activity (SGA); and methods to increase the extent to which benefits are used to help a child achieve independence and engage in SGA.</p> <p>The Commission is required to report its results to the House Committee on Ways and Means and the Senate Committee on Finance by November 30, 1995.</p>	<p>S. 1668 (Moynihan, D-NY) would establish a similar Commission except that:</p> <ul style="list-style-type: none"> ■ the Secretary would be required to appoint the 9 to 15 members within 90 days of enactment; ■ the study would examine: 1) whether the need by families for assistance in meeting high medical costs for children with serious disabilities, regardless of SSI eligibility, might be met through expanded Federal health assistance programs, and 2) other issues the Secretary deems appropriate; and ■ The Commission would be required to submit a report to the House Committee on Ways and Means and the Senate Finance Committee by September 1, 1995 and would terminate on September 30, 1995. 	<p>Will work with conferees to determine the best way to study this important issue.</p>

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SSI Issues	House	Senate	Position
Treatment of Deemed Income and Resources for Certain SSI Recipients	<p>H.R. 4277 would disregard, below specified levels, an ineligible spouse's net income and resources in determining an individual's continued Medicaid eligibility under section 1619(b).</p> <p>Effective October 1, 1995.</p>	None.	Oppose. Could continue Medicaid when spouse's income and resources inappropriately high for public assistance.
Plans for Achieving Self-Support (PASS) Under the SSI Program	<p>H.R. 4277 would:</p> <ul style="list-style-type: none"> ■ Deem a PASS approved if SSA has not disapproved it within 60 days of submission of a completed plan. Allows a PASS that has been deemed approved to be subsequently disapproved only prospectively. ■ Establish a 5-year demonstration project to examine expanding the scope of a PASS to include housing goals, such as improving accessibility to housing. ■ Require the Secretary to revise regulations so as to take the needs of an individual into account in determining the time necessary for completion of a PASS. <p>Effective January 1, 1995.</p>	None.	<p>Strongly oppose. Definition of completed plan unclear.</p> <p>Strongly oppose. Funds set aside under PASS should be for purposes of helping the individual become self-sufficient.</p> <p>Do not oppose.</p>
Treatment of Certain Grant, Scholarship or Fellowship Income in the SSI Program	<p>H.R. 4277 would provide that portions of grants, scholarships, and fellowships not used to pay for tuition and fees would be treated as earned income under the SSI program.</p> <p>Effective the second month after enactment.</p>	None.	Oppose.

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SSI Issues	House	Senate	Position
SSI Eligibility for Students Temporarily Abroad	<p>H.R. 4277 would allow individuals who leave the United States temporarily as part of an educational program designed for gainful employment to continue receiving SSI benefits if they were eligible for SSI the month they left the country.</p> <p>Effective January 1, 1995.</p>	None.	Oppose.
Disregard COLAs for Continued Eligibility for Work Incentives	<p>H.R. 4277 would continue Medicaid under section 1619(b) for an individual whose Social Security cost-of-living increase would make him otherwise ineligible because of excess unearned income.</p> <p>Effective for months after December, 1994.</p>	None.	Do not oppose. Negligible cost.

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SSI Issues	House	Senate	Position
<p>Combatting SSI Program Fraud</p>	<p>H.R. 4277 would strengthen present law in deterring fraud and abuse in the SSI program by:</p> <ul style="list-style-type: none"> ■ Authorizing civil penalties to be imposed against individuals who engage in fraudulent schemes to enroll ineligible individuals in the SSI program. ■ Treating SSI fraud as a felony. ■ Requiring that third-party translators certify under penalty of perjury the accuracy of translations, etc. ■ Clarifying SSA's authority to reopen SSI cases where there is reason to believe that an application or supporting documents are fraudulent, and to terminate benefits expeditiously in cases where SSA determines that there is insufficient reliable evidence of disability. ■ Requiring the HHS OIG to immediately notify SSA of cases under investigation for fraud, and requiring SSA to immediately redetermine SSI cases where there is reason to believe that an application or supporting documents are fraudulent, unless the U.S. Attorney or equivalent State prosecutor determines that doing so would jeopardize criminal prosecution of the parties involved. ■ Requiring SSA to obtain and utilize, to the extent it is useful, pre-admission immigrant and refugee medical information compiled by the Immigration and Naturalization Service and the Centers for Disease Control. ■ Requiring an annual report to Congress on the extent to which SSA has reviewed SSI cases, including the extent to which the cases reviewed involved a high likelihood or probability of fraud. Effective October 1, 1994. 	<p>None.</p>	<p>Strongly support. Prefer applying also to OASDI. Would strengthen program integrity and enforcement efforts.</p> <p>Do not oppose. However, limits flexibility: overly specific provisions--micromanagement</p> <p>Do not oppose if technical change provides for single notification in cases where multiple recipients are involved in a particular investigation.</p> <p>Do not oppose as long as SSA can adjudicate without awaiting INS/CDC response. However, SSA has concerns about the cost effectiveness of this provision.</p>

SSI Issues	House	Senate	Position
Disability Reviews for Children Reaching Age 18	<p>H.R 4277 would require that SSI childhood disability recipients undergo CDRs between their 18th and 19th birthdays and meet adult disability criteria to continue their eligibility.</p> <p>Applicable to recipients who attain age 18 in or after the 9th month after enactment.</p>	None.	Strongly oppose. However, will pursue doing CDRs for children with parameters set administratively.
Disability Reviews for SSI Recipients	H.R. 4277 would clarify that the current DI periodic CDR provisions apply also to SSI recipients.	None.	Strongly oppose. SSI CDRs have not been cost effective. Support a study to determine how to best target this population to make CDRs cost effective.
Other Issues	House	Senate	Position
Technical Corrections	H.R. 4277 would correct certain technical errors and inconsistencies in the Omnibus Budget Reconciliation Act of 1990.	None.	Support.
Transfer of Funds to the Railroad Retirement Account	<p>H.R. 4277 would make permanent the provision that proceeds from the income taxation of railroad retirement tier 2 benefits be deposited in the railroad retirement account, rather than the General Fund of the Treasury.</p> <p>Effective for income taxes on tier 2 benefits received after September 30, 1992 (when the authority for depositing the proceeds from these income taxes in the railroad retirement account was last applicable).</p>	None.	Do not oppose.

• These provisions need to be reviewed in the context of Independent Agency to ensure authorities are properly designated.

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Independent Agency Legislation

On March 2, 1994, the Senate passed, by voice vote, S.1560, which would make SSA an independent agency. Under the provisions of the bill:

- o SSA would be established as an independent agency, responsible for the administration of the old-age, survivors, and disability insurance (OASDI) and supplemental security income (SSI) programs.
- o A Commissioner, appointed by the President with the advice and consent of the Senate, would head the independent SSA for a 4-year term coincident with the term of the President. The Commissioner would exercise all powers and discharge all duties of SSA, and would have authority and control over all SSA personnel and activities. A Deputy Commissioner would be appointed by the President, with the advice and consent of the Senate. The Deputy Commissioner would have such powers as assigned by the Commissioner and would serve a term coincident with that of the Commissioner.
- o A 7-member, part-time Social Security Advisory Board would be established. The Board would meet at least 6 times a year and advise the Commissioner. Board members would be appointed as follows: 3 by the President (no more than 2 from the same political party), 2 by the Speaker of the House (with the advice of the Chairman and Ranking Minority Member of the Committee on Ways and Means), and 2 by the President pro tempore of the Senate (with the advice and consent of the Chairman and Ranking Minority Member of the Committee on Finance).
- o The changes would be effective 180 days after the bill is enacted or, if earlier, as of a date designated by the President.

The Senate also agreed by voice vote to an amendment by Senator Cohen (R., ME) concerning the payment of Social Security and SSI benefits to substance abusers. The amendment would:

- o extend the treatment and representative payee requirements now imposed on SSI recipients to disability insurance (DI) beneficiaries whose disability is based in whole or in part on drug addiction and/or alcoholism (DA&A);
- o require the Secretary to provide for monitoring and testing all DA&A beneficiaries/recipients; to suspend or terminate benefits for non-compliance; and to submit an annual report to the Congress;
- o permit administrative law judges to retain jurisdiction over DA&A cases awarded at the hearing level in order to monitor treatment compliance directly and to determine the extent to which monitoring and treatment advance program goals;
- o require that DA&A benefits be paid only to State/local government agencies or State regulated community-based nonprofit social service agencies, and require these representative payees and referral and monitoring agencies to report beneficiary non-compliance to the Secretary;
- o mandate periodic continuing disability reviews at prescribed intervals and set time limits on eligibility for benefits;
- o terminate Social Security and SSI DA&A benefits after 36 months (excluding periods of suspension for treatment noncompliance) unless the beneficiary establishes a disability unrelated to substance abuse;
- o define substantial gainful activity (SGA) to include proceeds from illegal activity undertaken to support substance abuse; and
- o make fraud under the SSI program, including fraud by a representative payee, a felony (the SSI penalty provisions would equal those for the Social Security program) and, upon imposition of a second administrative or criminal penalty for fraud, exclude the person or entity from participating in SSI, Social Security, Medicare, block grants for maternal and child health services and social services, and any other Federal program or State health care programs.

The SGA and fraud penalty provisions would take effect immediately upon enactment. Other provisions would apply to benefits payable for disability determinations made at least 90 days after enactment and, within 3 years after enactment, to individuals already on the rolls whose disability is based in whole or in part on DA&A.

Notch Commission

On March 2, 1994, President Clinton appointed the remaining four members of the Commission on the Social Security "Notch" Issue.

The Commission, which also includes eight members previously appointed by congressional leaders, will examine the causes of the notch controversy, whether there are inequities in the treatment of Social Security beneficiaries born in different years, whether any legislative action is needed, and, if so, how much it would cost. The Commission's final report is due to Congress by December 31, 1994.

A list of the Commission members is attached.

Attachment

**APPOINTEES TO THE COMMISSION ON THE
SOCIAL SECURITY "NOTCH" ISSUE**

APPOINTED BY THE PRESIDENT

Alan K. Campbell--Chair	Professor, Department of Public Policy, Wharton School of Business, University of Pennsylvania; Director, Office of Personnel Management, 1977-1981
Lindy Boggs	Democratic Representative from Louisiana, 1973-1990
Gwendolyn King	Vice President, Pennsylvania Power and Light; Commissioner of Social Security, 1989-1992
Robert Froehlke	President and Chief Executive Officer, IDS Mutual Funds Group, Minneapolis, MN, 1987-1993

APPOINTED BY THE SPEAKER OF THE HOUSE

James C. Corman	Partner, law firm of Silverstein and Mullens; Democratic Representative from California, 1961-1981 (member, Ways and Means Committee 1968-1981)
Dr. Carroll L. Estes	Director, Institute for Health and Aging, University of California School of Nursing

APPOINTED BY THE HOUSE MINORITY LEADER

Barber B. Conable

President, World Bank, 1986-1991; Republican Representative from New York, 1965-1985 (member Ways and Means Committee 1966-1985); member, National Commission on Social Security Reform (1983)

Arthur "Pete" Singleton

Consultant, Webster, Chamberlain and Bean; Minority Counsel, Ways and Means Committee, 1970-1988; member, 1991 Advisory Council on Social Security

APPOINTED BY THE SENATE MAJORITY LEADER

Patricia M. Owens

Vice President, Disability Programs, UNUM Life Insurance of America; Associate Commissioner for Disability, Social Security Administration, 1982-1986

Robert J. Myers

Consulting actuary; Deputy Commissioner (1981-1982) and Chief Actuary (1947-1970), Social Security Administration; Executive Director, National Commission on Social Security Reform (1983); member, National Commission on Social Security (1981)

APPOINTED BY THE SENATE MINORITY LEADER

Dr. Carolyn L. Weaver

Director, Social Security and Pension Project, American Enterprise Institute; professional staff, Senate Finance Committee, 1981-1984; senior advisor, National Commission on Social Security Reform (1983); member, 1987 Disability Advisory Council

John F. Cogan

Senior Fellow, Hoover Institute, Stanford University; Deputy Director, Office of Management and Budget, 1985

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

Number 103-10

May 9, 1994

HOUSE WAYS AND MEANS COMMITTEE APPROVES SOCIAL SECURITY LEGISLATION

The House Committee on Ways and Means has marked up and ordered favorably reported two Social Security bills introduced by Representative Andrew Jacobs (D., IN)--H.R. 4277, "The Social Security Administrative Reform Act of 1994" and H.R. 4278, "The Social Security Act Amendments of 1994." H.R. 4278 was ordered reported on April 28 and H.R. 4277 was ordered reported on May 4. The provisions of the bills are described in the attachment.

The provisions of H.R. 4277 for establishing SSA as an independent agency differ from those of S. 1560, which the Senate passed on March 2, 1994 (see Legislative Bulletin Number 103-8). The major difference between the two bills' independent agency provisions is that H.R. 4277 provides for administration by a bipartisan 3-member board, whereas S. 1560 provides for a single administrator.

The drug addiction and alcoholism provisions of the two bills are very similar in that both would time-limit payments to substance abusers, impose sanctions for treatment noncompliance, and clarify that proceeds from illegal activities would be considered in determining substantial gainful activity.

Effective dates are not shown for several of the provisions of H.R. 4277 because they were Committee amendments for which specific legislative language was not available at the time this Bulletin was prepared.

Attachment

H.R. 4277, The Social Security Administrative Reform Act of 1994

Ordered favorably reported on May 4 by the House Committee on Ways and Means.

OASDI PROVISIONS

Establishment of the Social Security Administration as an Independent Agency

Establishes SSA as an independent agency, responsible for the administration of the old-age, survivors, and disability insurance (OASDI) and Supplemental Security Income (SSI) programs. The new agency would be governed by a full-time, bipartisan 3-member Social Security Board, appointed by the President with the advice and consent of the Senate. The Board would establish broad legislative and regulatory policy and would oversee the operation of SSA. It also would appoint an Executive Director, who would be charged with day-to-day administration of the agency and who would be responsible to the Board. The Board members would serve 6-year staggered terms and the Executive Director would be appointed to a 4-year term. The changes generally would be effective October 1, 1995.

Restrictions on Benefits Based on Disability of Substance Abusers

Places new restrictions on Social Security disability insurance (DI) and SSI benefit payments to individuals disabled by drug addiction and alcoholism (DA&A) and establishes barriers against a beneficiary's using Social Security or SSI benefits to support an addiction, specifically:

- Limits the payment of DI and SSI benefits to 36 months for individuals whose substance abuse is material to their disability. The provision would be effective 180 days after enactment.
- Establishes mandatory, progressive sanctions for non-compliance with treatment for both DI and SSI substance abusers. The provision would be effective 180 days after enactment.
- Extends the treatment participation requirement, which now applies only to SSI recipients, to DI beneficiaries whose substance abuse is material to their disability determination. The provision would be effective 180 days after enactment.
- Requires the Secretary to establish Referral and Monitoring Agency (RMA) agreements with each State and to issue regulations defining appropriate treatment for substance abusers.

- Clarifies that the DI continuing disability review requirements apply to SSI recipients.
- Requires gradual payment of retroactive DI and SSI benefits to substance abusers. The provision would be effective 180 days after enactment.
- Extends the representative payee requirement, which now applies only to SSI beneficiaries, to DI beneficiaries whose drug addiction or alcoholism is material to a finding of disability.
- Requires that Social Service Agencies or State or local government agencies be selected as representative payees for DI and SSI substance abusers, unless the Secretary deemed this preference inappropriate.
- Permits organizations that serve as representative payees for substance abusers to retain, as compensation for their services, up to 10 percent of recipients' monthly benefits, without regard to a dollar cap. (Fees an organization collects for payee services to Social Security and SSI beneficiaries other than substance abusers would continue to be limited to 10 percent of benefits, not to exceed \$25.) Would make the fee for service provision permanent.
- Provides that the illegality of an activity shall be disregarded in determining whether an individual alleging disability is engaging in substantial gainful activity. The provision would be effective upon enactment.
- Requires the Secretary to study: (1) the feasibility, cost and equity of requiring representative payees for all DI and SSI beneficiaries who are DA&A, regardless of whether their addiction is material to their disability; (2) the feasibility of providing non-cash benefits; and (3) the extent of substance abuse among child recipients and their representative payees. The report on the studies is due to the House Committee on Ways and Means and the Senate Committee on Finance by April 1, 1995.

Explicit Requirements for Maintenance of Telephone Access to Local Offices of the Social Security Administration

Requires that, in Social Security offices not served by a teleservice center on September 30, 1989, SSA reestablish and maintain the same number of telephone lines and telephone sets as were in place on that date. SSA could not reduce 800-number service to carry out this requirement. The provision would be effective 90 days after enactment.

Study of Rising Cost of Disability Insurance Benefits

Requires the Secretary to conduct a study of the underlying social, economic, demographic, programmatic, and other trends responsible for recent increases in DI program costs. The report is due by December 31, 1994 to the House Committee on Ways and Means and the Senate Committee on Finance.

Extension of Disability Insurance Program Demonstration Project Authority

Extends for 3 years (through June 10, 1996) authority for the Secretary to waive Social Security or Medicare benefit requirements in connection with demonstration projects and studies designed to promote the objectives or facilitate the administration of the Social Security disability insurance program and encourage disabled beneficiaries to return to work. The provision would be effective upon enactment.

Misuse of Symbols, Emblems, or Names in Reference to Social Security Programs and Agencies

Broadens present-law deterrents against misleading mailings about Social Security and Medicare by providing that:

- Specific written authorization from SSA would be required for a person to reproduce, reprint, or distribute for a fee any SSA form, application, or other SSA publication;
- A disclaimer on a mailing would not provide a defense against misleading mailing violations;
- Each piece of mail in an illegal mass mailing would constitute a violation;
- Names, letters, symbols, and emblems of HHS would be added to the items protected by the misleading advertising prohibitions; and
- The \$100,000 annual cap on civil penalties that may be imposed for misleading advertising activities would be removed, and penalties collected would be deposited in the OASI Trust Fund.

The provision would be effective upon enactment.

Repeal of the Facility-of-Payment Provision

Repeals the facility-of-payment provision, under which deductions are not now imposed against the benefits of an auxiliary beneficiary to whom they otherwise would apply, if the maximum family benefit would continue to be payable to other

auxiliaries living in the same household. Under the amendment, deductions would be made for the beneficiary to whom they apply, and the withheld benefits would be redistributed to other entitled auxiliaries living in the same household as the auxiliary who is subject to deductions. The provision would be effective for benefits payable for months after December 1995.

Expansion of State Option to Exclude Service of Election Officials or Election Workers from Coverage

Increases from \$100 to \$1,000 a year the amount an election worker must be paid for the earnings to be covered under Social Security or Medicare. The provision would be effective January 1, 1995.

Authorization for All States to Extend Coverage to State and Local Policemen and Firemen Under Existing Coverage Agreements

Gives all States, rather than only those now specifically authorized to do so, the option to extend Social Security coverage to police officers and firefighters who are under a retirement system. The provision would be effective upon enactment.

Limited Exemption for Canadian Ministers from Certain Self-Employment Tax Liability

Exempts certain ministers who were American citizens and residents of Canada from liability for unpaid Social Security taxes and related penalties for 1979 through 1984. The provision would be effective with respect to individuals who file a certificate with the Internal Revenue Service within 180 days after it issues implementing regulations.

Exclusion of Certain Aliens from Social Security Coverage

Excludes from Social Security coverage aliens who enter the United States as part of a cultural exchange program. The provision would be effective with the calendar quarter following the date of enactment.

Exclusion of Totalization Benefits from the Application of the Windfall Elimination Provision

Disregards the windfall elimination provision (1) in computing the regular U.S. benefit of a person who receives a foreign totalization benefit that includes U.S. employment, provided he receives no other pension based on noncovered employment and (2) in computing any U.S. totalization benefit. The provision would be effective for benefits for months after January 1995.

Exclusion of Military Reservists from Application of the Government Pension Offset and the Windfall Elimination Provisions

Excludes from the application of both the government pension offset and windfall elimination provisions to military pensions that are based, at least in part, on noncovered military reserve duty after 1956 and before 1988. The provision would be effective for benefits for months after January 1995.

Maximum Family Benefits in Guarantee Cases

Uses the maximum family benefit (MFB) in effect in the last month of a worker's prior entitlement to disability benefits for the purpose of determining the MFB under a subsequent period of entitlement. The provision would be effective for beneficiaries who became reentitled or died (after previously having been entitled) after January 1995.

Use of Social Security Numbers for Jury Selection Purposes

Allows State and local governments and Federal district courts to use Social Security numbers to eliminate duplicate names and convicted felons from jury selection lists. The provision would be effective upon enactment.

Authorization for Disclosure of Information by the Secretary of Health and Human Services for Purposes of Public or Private Epidemiological and Similar Research

Requires SSA, on a reimbursable basis, to disclose information showing whether an individual is alive or deceased, if it is needed for epidemiological or similar research that the Secretary of Health and Human Services determines has reasonable promise of contributing to national health interests. Requestors would have to agree to safeguard and limit re-release of the information. The provision would be effective upon enactment.

Increased Penalties for Unauthorized Disclosure of Social Security Information

Makes unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act a felony. Each violation would be punishable by a fine of up to \$10,000, imprisonment for up to 5 years, or both. The provision would be effective upon enactment.

Cross-matching of Social Security Account Number Information and Employer Identification Number Information Maintained by the Department of Agriculture

Permits the Department of Agriculture to disclose retail operators' names, Social Security numbers, and Employer Identification numbers to other Federal agencies for

the purpose of investigating food stamp fraud and violations of other Federal laws. The provision would be effective upon enactment.

Use of Social Security Numbers in the Administration of Federal Workers' Compensation Laws

Permits the Department of Labor to use Social Security numbers as the claim identification number for workers' compensation claims. The provision would be effective upon enactment.

Increase in Authorized Period for Extension of Time to File Annual Earnings Report

Extends from 3 months to 4 months the additional time that an individual could be granted to file an annual earnings report. The provision would be effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

Retirement Eligibility for Federal Employees Transferred to International Organizations

Continues the Social Security coverage of Federal civilian employees temporarily assigned to an international organization, regardless of whether the international organization is within or outside the United States. Employees would pay their share of the Social Security tax on their earnings and the loaning agency would pay the employer's share of the tax. The provision would be effective for services performed after the calendar quarter following the date of enactment.

Issuance of Physical Documents in the Form of Bonds, Notes, or Certificates to the Social Security Trust Funds

Requires that each obligation issued by the Department of the Treasury for purchase by the Social Security trust funds (including those already issued) be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness, rather than simply by an accounting entry. Requires interest payments and proceeds from the sale or redemption of trust fund holdings to be paid by checks drawn on the general fund of the Treasury. The provision would be effective 60 days after enactment.

Elimination of Rounding Distortion in the Calculation of the Contribution and Benefit Base and Earnings Test Exempt Amounts

Designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts would no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt

amounts over time.) The provision would be effective for the contribution and benefit base beginning in 1995 and for the exempt amounts for taxable years ending after 1994.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Provisions To Combat SSI Program Fraud

Strengtheners present law in deterring fraud and abuse in the SSI program by:

- Requiring that third-party translators certify under oath the accuracy of their translations, whether they are acting as the applicant's legal representative, and their relationship to the applicant.
- Authorizing civil penalties to be imposed against middlemen, medical professionals, and SSI recipients who engage in fraudulent schemes to enroll ineligible individuals in the SSI program.
- Treating SSI fraud as a felony.
- Clarifying SSA's authority to reopen SSI cases where there is reason to believe that an application or supporting documents are fraudulent, and to expeditiously terminate benefits in cases where SSA determines that there is insufficient reliable evidence of disability.
- Requiring the HHS Office of the Inspector General to immediately notify SSA about SSI cases under investigation for fraud, and requiring SSA to immediately reopen SSI cases where there is reason to believe that an application or supporting documents are fraudulent, unless the U.S. Attorney or equivalent State prosecutor determines that doing so would jeopardize criminal prosecution of the parties involved.
- Requiring SSA to obtain and utilize, to the extent it is useful, pre-admission immigrant and refugee medical information compiled by the Immigration and Naturalization Service and the Centers for Disease Control.
- Requiring an annual report to Congress on the extent to which SSA has reviewed SSI cases, including the extent to which the cases reviewed involved a high likelihood or probability of fraud.

Plans for Achieving Self-Support (PASS) Under the SSI Program

- Deems a PASS approved if SSA has not disapproved it within 60 days of submission of a completed plan. Allows a PASS that has been deemed approved to be subsequently disapproved only prospectively.
- Establishes a 5-year demonstration project to examine expanding the scope of a PASS to include housing goals, such as improving accessibility to housing.
- Requires the Secretary to revise regulations so as to take the needs of an individual into account in determining the time necessary for completion of a PASS.

Continuing Disability Reviews (CDRs) for Disabled Children

Requires that SSI childhood disability recipients undergo CDRs between their 18th and 19th birthdays and meet adult disability criteria to continue their eligibility.

Commission on Childhood Disability

Requires the Secretary to appoint, by January 1, 1995, a 15-member Commission on the "Evaluation of Disability in Children." The Commission, in consultation with the National Academy of Sciences, is to conduct a study on the effect of the current Supplemental Security Income definition of disability as it applies to children under the age of 18 and their receipt of services, including the appropriateness of an alternative definition. The Commission would also examine the feasibility of providing non-cash benefits to children; the feasibility of prorating Zebley lump sum retroactive benefits or holding them in trust; the extent to which SSA can involve private organizations to increase social services, education, and vocational instruction aimed at promoting independence and the ability to engage in substantial gainful activity (SGA); and methods to increase the extent to which benefits are used to help a child achieve independence and engage in SGA.

The Commission is required to report its results to the House Committee on Ways and Means and the Senate Committee on Finance by November 30, 1995, and the Commission would terminate December 31, 1996.

Disregard Deemed Income and Resources of Ineligible Spouse

Below specified levels, disregards an ineligible spouse's net income and resources in determining an individual's continued Medicaid eligibility under section 1619(b).

Treatment of Certain Grant, Scholarship, or Fellowship Income

Provides that portions of grants, scholarships, and fellowships not used to pay for tuition and fees would be treated as earned income under the SSI program.

SSI Eligibility for Students Temporarily Abroad

Allows individuals who leave the United States temporarily as part of an educational program designed for gainful employment to continue receiving SSI benefits if they were eligible for SSI the month they left the country.

Disregard of Cost-of-Living Increases for Continued Eligibility for Work Incentives

Continues Medicaid under section 1619(b) for an individual whose Social Security cost-of-living increase would make him otherwise ineligible because of excess unearned income.

OTHER

Certain Transfers to Railroad Retirement Account Made Permanent

Makes permanent the provision that proceeds from the income taxation of railroad retirement tier 2 benefits be deposited in the railroad retirement account, rather than the General Fund of the Treasury. The change would be effective for income taxes on tier 2 benefits received after September 30, 1992 (when the authority for depositing the proceeds from these income taxes in the railroad retirement account was last applicable).

H.R. 4278, The Social Security Act Amendments of 1994

Ordered favorably reported on April 28 by the House Committee on Ways and Means.

Simplification of Employment Taxes on Domestic Services

Increases the threshold for coverage of domestic employees' wages from \$50 in a calendar quarter to \$1,250 in calendar year 1995. For subsequent years, this amount would increase in \$50 increments as average wages increase. Would also provide that wages paid to domestic employees be reported annually, rather than quarterly, beginning in 1995, and authorize the Department of the Treasury to include domestic wage reporting in the employer's Federal income tax return. In addition, a domestic employer who failed to pay taxes on a worker's wages for 1993 or 1994 would be excused from paying the taxes (and penalties and interest) if the wages were less than \$1,150 in 1993 or less than \$1,200 in 1994.

Allocations to Federal Disability Insurance Trust Fund

To resolve the short-range deficit in DI financing, increases the portion of the OASDI tax rate allocated to the DI Trust Fund, currently 0.60 percent, to 0.94 percent for 1994 through 1999, decreasing slightly to 0.90 percent thereafter. The provision would apply to wages paid after December 31, 1993, and to self-employment income for taxable years beginning after this date.

Also requires the Secretary to conduct a comprehensive study of the reasons for rising costs in the DI program. The report on the study is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1995.

Nonpayment of Benefits to Incarcerated Individuals

Extends the prisoner nonpayment provisions of present law to any Social Security beneficiary confined to a penal institution or correctional facility after having been convicted of a crime that is punishable by imprisonment for more than one year (regardless of whether the crime is classified a felony or the length of the sentence actually imposed).

Also applies the nonpayment provisions to Social Security beneficiaries confined in an institution by court order at public expense in connection with a finding that the individual is: guilty of an offense punishable by imprisonment for more than a year, but insane; not guilty of such an offense by reason of insanity or similar factors (such as a mental disease, a mental defect, or mental incompetence); or incompetent to stand trial. The provision would be effective 90 days after enactment.

LEGISLATIVE **Bulletin**

SOCIAL SECURITY
ADMINISTRATION

Number 103-11

May 18, 1994

House of Representatives Passes Social Security Legislation

On May 12, under suspension of the rules, the House of Representatives voted 420-0 to pass H.R. 4278, the "Social Security Act Amendments of 1994." H.R. 4278 includes provisions to increase the threshold for coverage of domestic employees' wages, increase the portion of Social Security taxes allocated to the Disability Insurance Trust Fund, and broaden the prisoner nonpayment provisions. The provisions are described in the attachment to Legislative Bulletin Number 103-10.

On May 17, under suspension of the rules, the House of Representatives voted 413-0 to pass H.R. 4277, the "Social Security Administrative Reform Act of 1994." The bill includes provisions to make the Social Security Administration an independent agency and to impose certain restrictions on Disability Insurance and Supplemental Security Income payments to substance abusers. The provisions are described in the attachment to Legislative Bulletin Number 103-10.

Also on May 17, under suspension of the rules, the House of Representatives passed by voice vote H.R. 3419, the "Tax Simplification and Technical Corrections Act of 1993." The bill contains a number of minor and technical provisions affecting the Social Security and SSI programs. The bill includes the Social Security-related provisions described in Legislative Bulletin Number 103-6.



LEGISLATIVE **Bulletin**

SOCIAL SECURITY
ADMINISTRATION

Number 103-12

May 24, 1994

SENATE APPROVES INDEPENDENT AGENCY LEGISLATION

On May 23, 1994, the Senate approved, by voice vote, H.R. 4277 (Jacobs), which includes provisions to establish the Social Security Administration as an independent agency (see Legislative Bulletin No. 103-10). The Senate struck the language of the House bill and inserted the text of S. 1560 (Moynihan), as passed by the Senate on March 2, 1994, including the amendments concerning the payment of Social Security and SSI benefits to substance abusers (see Legislative Bulletin No. 103-8). The major difference between the House and Senate independent agency provisions is that the House version provides for administration by a bipartisan 3-member board, while the Senate version provides for a single administrator.

The Senate has requested a conference with the House and has appointed the following conferees: Senator Moynihan (D., NY), Senator Baucus (D., MT), Senator Breaux (D., LA), Senator Packwood (R., OR), and Senator Dole (R., KS). House conferees have not been appointed.

LEGISLATIVE **Bulletin**

SOCIAL SECURITY
ADMINISTRATION

Number 103-14

July 25, 1994

On July 20, 1994, the conferees on H.R. 4277, the "Social Security Administrative Reform Act of 1994," met and reached agreement on the House- and Senate-passed versions of the bill. House and Senate action on the conference report is expected before Congress adjourns for the August recess (scheduled for August 12).

The following reflects our preliminary understanding of the conference agreement. Complete details about the provisions will not be available until the conferees file the conference report, which is expected to occur this week.

INDEPENDENT AGENCY

Establishes SSA as an independent agency, responsible for the administration of the old-age, survivors, and disability insurance (OASDI) and supplemental security income (SSI) programs. SSA is also required to continue to perform its current functions in assisting in the administration of the Medicare program, the Black Lung program and the Coal Industry Retirees Health Benefits Act.

The independent SSA is to be headed by a Commissioner, appointed by the President within 60 days of enactment and subject to Senate confirmation, to serve a 6-year term. The Commissioner exercises all powers and discharges all duties of SSA, and has authority and control over all SSA personnel and activities. The bill also provides for presidential appointment and Senate confirmation of a Deputy Commissioner, whose duties and authority are to be prescribed by the Commissioner, to serve a 6-year term.

Establishes a 7-member, bipartisan Social Security Advisory Board, required to meet at least 4 times a year, to review and make recommendations to the Commissioner concerning matters of policy; the Board has no role with respect to SSA operations. Board members are to be appointed as follows: 3 by the President (no more than 2 from the same political party), 2 by the Speaker of the House (with the advice of the Chairman and Ranking Minority Member of the Committee on Ways and Means), and 2 by the President pro tempore of the Senate (with the advice and consent of the Chairman and Ranking Minority Member of the Committee on Finance). Eliminates the requirement of present law for the appointment of a quadrennial Advisory Council on Social Security after the current advisory council completes its work.

Establishes a position of Inspector General in the Social Security Administration and provides for the appointment of a Chief Financial Officer by the Commissioner. The establishment of other executive positions (e.g., General Counsel and Chief Administrative Law Judge) is left to the Commissioner.

Requires the Commissioner and the Secretary to develop a joint plan for the transfer of personnel and resources to the independent SSA. Full-time or part-time permanent employees who are transferred to SSA are protected against separation or reduction in grade or compensation for one year after their transfer or the date of enactment, whichever is later. Further, any employee who was not employed by SSA immediately prior to enactment will be exempt from directed reassignment for one year after enactment; the exemption is limited to 6 months in the case of directed reassignments between Baltimore and Washington, D.C., duty stations.

As an independent agency, SSA will continue to adjudicate Medicare appeals. Under this arrangement, the Secretary will maintain the ultimate authority for appeal decisions, but SSA's ALJ corps will continue to conduct Medicare hearings until such time as the Commissioner and the Secretary may agree to separate the functions.

The independent agency provision becomes effective on April 1, 1995. The Secretary and the Commissioner are required to enter into a written inter-agency arrangement by January 1, 1995 for the transfer of appropriate personnel and resources to the independent agency effective April 1, 1995, and to submit the arrangement to the House Committee on Ways and Means and the Senate Committee on Finance by January 1, 1995. The General Accounting Office is required to submit a report to the Committees evaluating the plan by February 15, 1995.

RESTRICTIONS ON BENEFITS BASED ON DISABILITY OF SUBSTANCE ABUSERS

Places new restrictions on Social Security disability insurance (DI) and SSI benefit payments to individuals disabled by drug addiction and alcoholism (DA&A) and establishes barriers against a beneficiary's using Social Security or SSI benefits to support an addiction.

Payment Limitation

Limits the payment of SSI benefits to 36 months for individuals whose substance abuse is material to their disability. Limits the payment of DI benefits to 36 months,

beginning with the first month for which treatment is available. The 36-month DA&A payment restrictions sunset October 1, 2004. Medicare, Medicaid, and dependents' benefits would continue as long as a terminated beneficiary continued to be disabled and otherwise eligible (i.e., except for the 36-month payment limit).

Suspension for Non-Compliance

Provides for suspending benefits for non-compliance with treatment for both DI and SSI substance abusers, beginning the month after SSA sends notification of non-compliance. Once benefits are suspended for non-compliance, benefits could be reinstated after demonstrated compliance with treatment requirements for specified periods--a minimum of two months, three months, and six months, respectively, for the first, second, third, and additional instances of non-compliance. Suspension of benefits for 12 consecutive months for non-compliance would result in termination of benefits.

Treatment Requirement

Extends the treatment participation requirement, which now applies only to SSI recipients, to DI beneficiaries whose substance abuse is material to their disability determination. The provision is to be implemented beginning with newly adjudicated cases and DI beneficiaries already on the rolls with a primary diagnosis of DA&A, and extending to other covered beneficiaries as quickly as possible.

Referral and Monitoring

Requires the establishment of Referral and Monitoring Agency (RMA) contracts in each State and the issuance of regulations defining appropriate treatment for substance abusers.

Retroactive Benefits

Requires gradual payment of retroactive DI and SSI benefits to substance abusers, except for beneficiaries who have incurred debts to State general assistance programs, owe attorney fees, or are at high risk of homelessness.

Representative Payment

Extends the representative payee requirement, which now applies only to SSI beneficiaries, to DI beneficiaries whose drug addiction or alcoholism is material to a finding of disability.

Requires SSA to give preference to the appointment of Social Service Agencies or State or local government agencies as representative payees for DI and SSI substance abusers, unless SSA determines that a family member would be a more appropriate payee.

Permits organizations that serve as representative payees for substance abusers to retain, as compensation for their services, the lesser of 10 percent of the monthly benefit or \$50, indexed to the CPI.

DA&A Study

Requires a study of: (1) the feasibility, cost and equity of requiring representative payees for all DI and SSI beneficiaries who suffer from drug addiction or alcoholism, regardless of whether their addiction is material to their disability; (2) the feasibility, cost and equity of providing non-cash benefits; and (3) the extent of substance abuse among child recipients and their representative payees. A report on the studies is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1995.

ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS

Requires each obligation issued by the Department of the Treasury for purchase by the Social Security trust funds (including those already issued) to be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness, rather than simply by an accounting entry. Requires interest payments and proceeds from the sale or redemption of trust fund holdings to be paid by checks drawn on the general fund of the Treasury. The provision is effective 60 days after enactment.

MAINTENANCE OF TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION

Requires GAO to assess SSA's use of innovative technology to increase public telephone access to local Social Security offices (both phase I and II) and to report to the House Committee on Ways and Means and the Senate Finance Committee no later than January 31, 1996.

EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE

Increases from \$100 to \$1,000 a year the amount an election worker must be paid for the earnings to be covered under Social Security or Medicare. This amount increases automatically as wage levels rise; however, there will be no increases before January 1, 2000. The provision is effective January 1, 1995.

USE OF SOCIAL SECURITY NUMBERS FOR JURY SELECTION PURPOSES

Allows State and local governments and Federal district courts to use Social Security numbers to eliminate duplicate names and convicted felons from jury selection lists. The provision is effective upon enactment.

AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICEMEN AND FIREMEN UNDER EXISTING COVERAGE AGREEMENTS

Gives all States, rather than only those now specifically authorized to do so, the option to extend Social Security coverage to police officers and firefighters who are under a retirement system. The provision is effective upon enactment.

LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY

Exempts certain ministers who were American citizens and residents of Canada from liability for unpaid Social Security taxes and related penalties for 1979 through 1984. The provision is effective with respect to individuals who file a certificate with the Internal Revenue Service within 180 days after it issues implementing regulations.

EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION

Disregards the windfall elimination provision (1) in computing the regular U.S. benefit of a person who receives a foreign totalization benefit that includes U.S. employment, provided he receives no other pension based on noncovered employment and (2) in computing any U.S. totalization benefit. The provision is effective for benefits for months after January 1995.

EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND THE WINDFALL ELIMINATION PROVISIONS

Excludes from the application of both the government pension offset and windfall elimination provisions military pensions that are based, at least in part, on noncovered military reserve duty after 1956 and before 1988. The provision is effective for benefits for months after January 1995.

REPEAL OF THE FACILITY-OF-PAYMENT PROVISION

Repeals the facility-of-payment provision, under which deductions are not now imposed against the benefits of an auxiliary beneficiary to whom they otherwise would apply, if the maximum family benefit would continue to be payable to other auxiliaries living in the same household. Deductions would be made for the beneficiary to whom they apply, and the withheld benefits would be redistributed to other entitled auxiliaries living in the same household as the auxiliary who is subject to deductions. The provision is effective for benefits payable for months after December 1995.

MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES

Uses the maximum family benefit in effect in the last month of a worker's prior entitlement to disability benefits for the purpose of determining the maximum family benefit under a subsequent period of entitlement. The provision is effective for beneficiaries who become reentitled, and survivors of beneficiaries who die after previously having been entitled, after January 1995.

AUTHORIZATION FOR SSA DISCLOSURE OF INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH

Requires SSA, on a reimbursable basis, to disclose information showing whether an individual is alive or deceased, if it is needed for epidemiological or similar research that the Secretary of Health and Human Services determines has reasonable promise of contributing to national health interests. Requestors would have to agree to safeguard and limit re-release of the information. The provision is effective upon enactment.

MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY PROGRAMS AND AGENCIES

Broadens present-law deterrents against misleading mailings about Social Security and Medicare by:

--Requiring specific written authorization from SSA for a person to reproduce, reprint, or distribute for a fee any SSA form, application, or other SSA publication;

--Providing that a disclaimer on a mailing does not provide a defense against misleading mailing violations;

--Providing that each piece of mail in an illegal mass mailing constitutes a violation;

--Adding names, letters, symbols, and emblems of SSA and HHS to the items protected by the misleading advertising prohibitions; and

--Removing the \$100,000 annual cap on civil penalties that may be imposed for misleading advertising activities, and providing that penalties SSA collects are to be deposited in the OASI Trust Fund.

The provision is effective upon enactment.

INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION

Makes unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act a felony. Each violation is punishable by a fine of up to \$10,000, imprisonment for up to 5 years, or both. The provision is effective upon enactment.

INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT

Extends from 3 months to 4 months the additional time that an individual may be granted to file an annual earnings report. The provision is effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY

Extends for 3 years (through June 10, 1996) authority to waive Social Security or Medicare benefit requirements in connection with demonstration projects and studies designed to promote the objectives or facilitate the administration of the Social Security disability insurance program and encourage disabled beneficiaries to return to work.

CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE

Permits the Department of Agriculture to disclose retail operators' names, Social Security numbers, and Employer Identification numbers to other Federal agencies for the purpose of investigating food stamp fraud and violations of other Federal laws. The provision is effective upon enactment.

CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT

Makes permanent the provision that proceeds from the income taxation of railroad retirement tier 2 benefits be deposited in the railroad retirement account, rather than the General Fund of the Treasury. The change is effective for income taxes on tier 2 benefits received after September 30, 1992 (when the authority for depositing the proceeds from these income taxes in the railroad retirement account was last applicable).

AUTHORIZE THE DEPARTMENT OF LABOR TO USE SOCIAL SECURITY NUMBERS AS CLAIM IDENTIFICATION NUMBERS

Permits the Department of Labor to use Social Security numbers as claim identification numbers for workers' compensation claims. The provision is effective upon enactment.

RETIREMENT ELIGIBILITY FOR FEDERAL EMPLOYEES TRANSFERRED TO INTERNATIONAL ORGANIZATIONS

Continues the Social Security coverage of Federal civilian employees temporarily assigned to an international organization, regardless of whether the international organization is within or outside the United States. Employees are to pay their share of the Social Security tax on their earnings and the loaning agency is to pay the employer's share of the tax. The provision is effective for services performed after the calendar quarter following the date of enactment.

EXTEND THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101(A)(15)(Q) OF THE IMMIGRATION ACT

Excludes from Social Security coverage aliens who enter the United States as part of a cultural exchange program. The provision is effective with the calendar quarter following the date of enactment.

ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS

Designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts would no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision would be effective for the contribution and benefit base beginning in 1995 and for the exempt amounts for taxable years ending after 1994.

COMMISSION ON CHILDHOOD DISABILITY

Requires appointment, by January 1, 1995, of a 15-member Commission on the "Evaluation of Disability in Children." The Commission, in consultation with the National Academy of Sciences, is to conduct a study on the effect of the current Supplemental Security Income definition of disability as it applies to children under the age of 18 and their receipt of services, including the appropriateness of an alternative definition. The Commission also is to examine the feasibility of providing non-cash benefits to children; the feasibility of prorating Zebley lump sum retroactive

benefits or holding them in trust; the extent to which SSA can involve private organizations to increase social services, education, and vocational instruction aimed at promoting independence and the ability to engage in substantial gainful activity (SGA); and the desirability and methods of increasing the extent to which benefits are used to help a child achieve independence and engage in SGA.

The Commission is required to report its results and any recommendations to the House Committee on Ways and Means and the Senate Committee on Finance by November 30, 1995.

PLANS FOR ACHIEVING SELF-SUPPORT (PASS) UNDER THE SSI PROGRAM

Requires SSA to revise its regulations to take the needs of an individual into account in determining the time necessary for completion of a PASS.

SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD

Allows individuals who leave the United States temporarily as part of an educational program that is not available in the United States and that is designed for gainful employment to continue receiving SSI benefits for up to 1 year if they were eligible for SSI the month they left the country.

DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED ELIGIBILITY FOR WORK INCENTIVES

Continues Medicaid under section 1619(b) for an individual whose Social Security cost-of-living increase otherwise would make him ineligible because of excess unearned income.

PROVISIONS TO COMBAT DI AND SSI PROGRAM FRAUD

Strengthens present law in deterring fraud and abuse in the DI and SSI programs by:

--Requiring that third-party translators certify under oath the accuracy of their translations, whether they are acting as the applicant's legal representative, and their relationship to the applicant.

--Authorizing civil penalties to be imposed against middlemen, medical professionals, and DI beneficiaries and SSI recipients who engage in fraudulent schemes to enroll ineligible individuals in the DI and SSI programs.

--Treating SSI fraud as a felony.

--Clarifying SSA's authority to reopen DI and SSI cases where there is reason to believe that an application or supporting documents are fraudulent, and to terminate benefits expeditiously in cases where SSA determines that there is insufficient reliable evidence of disability.

--Requiring the Inspector General to immediately notify SSA about DI and SSI cases under investigation for fraud, and requiring SSA to immediately reopen such cases where there is reason to believe that an application or supporting documents are fraudulent, unless the U.S. Attorney or equivalent State prosecutor determines that doing so would jeopardize criminal prosecution of the parties involved.

--Requiring SSA to obtain and utilize, to the extent it is useful, pre-admission immigrant and refugee medical information compiled by the Immigration and Naturalization Service and the Centers for Disease Control.

--Requiring SSA to submit an annual report to Congress on the extent to which it has reviewed DI and SSI cases, including the extent to which the cases reviewed involved a high likelihood or probability of fraud.

DISABILITY REVIEWS FOR SSI RECIPIENTS

Requires SSA to perform CDRs for a minimum of 100,000 SSI recipients each year for the next 3 years and one-third of all childhood SSI recipients when they reach age 18. Requires SSA to develop an SSI CDR profile of individuals whose disabling impairment is most likely to improve and to report its findings to the Congress at the end of the 3-year period.

EXEMPTION OF RETROACTIVE ZEBLEY PAYMENTS FROM STATE PASSALONG REQUIREMENT

Allows States the option of exempting Zebley-related retroactive State supplementary payments from the annual supplementary payments expenditure amount that a State must maintain in the following year in order to meet the passalong requirement.

LEGISLATIVE Bulletin

SOCIAL SECURITY
ADMINISTRATION

Number 103-15

August 11, 1994

On Thursday, August 11, the House passed the conference report on H.R. 4277, the "Social Security Independence and Program Improvements Act of 1994." On Friday, August 5, the Senate passed the conference report by unanimous consent. The bill will next go to the President to be signed into law.

The following is an update of Legislative Bulletin No. 103-14 to reflect the conference agreement:

INDEPENDENT AGENCY

Establishes SSA as an independent agency, responsible for the administration of the old-age, survivors, and disability insurance (OASDI) and Supplemental Security Income (SSI) programs. SSA is also required to continue to perform its current functions in assisting in the administration of the Medicare program, the Black Lung program, and the Coal Industry Retirees Health Benefits Act.

The independent SSA is to be headed by a Commissioner, appointed by the President within 60 days of enactment and subject to Senate confirmation, to serve a 6-year term, with the initial term of office ending January 19, 2001. The Commissioner exercises all powers and discharges all duties of SSA, and has authority and control over all SSA personnel and activities. The bill also provides for Presidential appointment and Senate confirmation of a Deputy Commissioner, whose duties and authority are to be prescribed by the Commissioner, to serve a 6-year term, with the initial term of office ending January 19, 2001.

Establishes a position of Inspector General in the Social Security Administration (to be appointed by the President) and provides for the appointment of a Chief Financial Officer by the Commissioner.

Establishes a seven-member, bipartisan Social Security Advisory Board, required to meet at least four times a year, to review and make recommendations to the Commissioner concerning matters of policy; the Board has no role with respect to

SSA operations. Board members are to be appointed as follows: Three by the President (no more than two from the same political party), two by the Speaker of the House (with the advice of the Chairman and Ranking Minority Member of the Committee on Ways and Means), and two by the President pro tempore of the Senate (with the advice and consent of the Chairman and Ranking Minority Member of the Committee on Finance). Board members are to serve staggered 6-year terms. Eliminates the requirement of present law for the appointment of a quadrennial Advisory Council on Social Security after the current Advisory Council completes its work.

Requires the Commissioner and the Secretary to develop a joint plan for the transfer of personnel and resources to the independent SSA. For 1 year after the effective date all full-time or part-time permanent employees are protected against separation or reduction in grade or compensation if such action is caused solely as a result of transfer. Further, any employee who was not employed by SSA immediately prior to enactment will be exempt from directed reassignment for 1 year after the effective date; the exemption is limited to 6 months in the case of directed reassignments between Baltimore and Washington, D.C. duty stations.

As an independent agency, SSA will continue to adjudicate Medicare appeals. Under this arrangement, the Secretary will maintain the ultimate authority for appeal decisions, but SSA's ALJ corps will continue to conduct Medicare hearings until and unless such time as the Commissioner and the Secretary reach a different agreement.

By November 1, 1994, the Secretary and Commissioner are to transmit a report to the House Committee on Ways and Means and Senate Committee on Finance regarding the progress made in developing the inter-agency transfer arrangement. By January 1, 1995, the Secretary and the Commissioner are required to enter into a written inter-agency arrangement for the transfer of appropriate personnel and resources to the independent agency effective March 31, 1995, and to submit the arrangement to the House Committee on Ways and Means, the Senate Committee on Finance, and the General Accounting Office (GAO) by January 1, 1995. GAO is required to submit a report to the Committees evaluating the plan by February 15, 1995.

The independent agency provision becomes effective on March 31, 1995.

RESTRICTIONS ON BENEFITS BASED ON DISABILITY OF SUBSTANCE ABUSERS

Places new restrictions on Social Security disability insurance (DI) and SSI benefit payments to individuals disabled by drug addiction and alcoholism (DA&A) and establishes barriers against a beneficiary's using Social Security or SSI benefits to support an addiction. The provisions are generally effective 180 days after enactment.

Payment Limitation

Limits the payment of SSI benefits to 36 months for individuals whose substance abuse is material to their disability. Likewise limits the payment of DI benefits to 36 months but begins with the first month for which treatment is available. The 36-month DA&A payment restrictions sunset October 1, 2004. Medicare, Medicaid, and dependents' benefits will continue as long as a terminated beneficiary continues to be disabled and otherwise eligible (i.e., except for the 36-month payment limit). The payment limit will not apply to individuals who are disabled independent of their alcoholism or drug addiction at the close of the 36-month period.

Suspension for Non-Compliance

Provides for suspending benefits for non-compliance with treatment for both DI and SSI substance abusers, beginning the month after SSA sends notification of non-compliance. Once benefits are suspended for non-compliance, they may be reinstated only after demonstrated compliance with treatment requirements for specified periods-- a minimum of 2 months, 3 months, and 6 months, respectively, for the first, second, third, and additional instances of non-compliance. Suspension of benefits for 12 consecutive months for non-compliance will result in termination of benefits.

Treatment Requirement

Extends the treatment participation requirement, which now applies only to SSI recipients, to DI beneficiaries whose substance abuse is material to their disability determination. The provision is to be implemented beginning with newly adjudicated cases and DI beneficiaries already on the rolls with a primary diagnosis of DA&A, and extending to other applicable beneficiaries as quickly as possible.

Referral and Monitoring

Requires the establishment of Referral and Monitoring Agency (RMA) contracts in each State and the issuance of regulations defining appropriate treatment for substance abusers.

Retroactive Benefits

Requires gradual payment of retroactive DI and SSI benefits to substance abusers, except for beneficiaries who have outstanding debts related to housing and are at high risk of homelessness. Retroactive benefits due an individual whose entitlement terminates will continue in prorated amounts until they are fully paid. In addition, if a beneficiary dies without having received all retroactive benefits, the unpaid amount becomes an underpayment.

Representative Payment

Extends the representative payee requirement, which now applies only to SSI beneficiaries, to DI beneficiaries whose drug addiction or alcoholism is material to a finding of disability.

Requires SSA to give preference to the appointment of Social Service Agencies or to Federal, State or local government agencies as representative payees for DI and SSI substance abusers, unless SSA determines that a family member would be a more appropriate payee.

Permits organizations that serve as representative payees for substance abusers to retain, as compensation for their services, the lesser of 10 percent of the monthly benefit or \$50, indexed to the Consumer Price Index (CPI). Also, indexes to the CPI the maximum payee services fee (\$25) for other beneficiaries with a qualified organizational payee.

Studies and Reports

Requires the following DA&A studies and reports:

--A study of: (1) the feasibility, cost and equity of requiring representative payees for all DI and SSI beneficiaries who suffer from drug addiction or alcoholism, regardless of whether their addiction is material to their disability; (2) the feasibility, cost and equity of providing non-cash benefits; and (3) the extent of substance abuse among child recipients and their representative payees. A report on the studies is due to the

House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1995.

--A report on the Secretary's activities relating to the monitoring and testing of Social Security and SSI DA&A beneficiaries. The report is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1996.

--Demonstration projects designed to explore innovative referral, monitoring, and treatment approaches with respect to Social Security and SSI DA&A beneficiaries who are subject to a treatment requirement. A report on the demonstration projects is due to the House Committee on Ways and Means and the Senate Committee on Finance by December 31, 1997.

ISSUANCE OF PHYSICAL DOCUMENTS IN THE FORM OF BONDS, NOTES, OR CERTIFICATES TO THE SOCIAL SECURITY TRUST FUNDS

Requires each obligation issued by the Department of the Treasury for purchase by the Social Security trust funds (including those already issued) to be evidenced by a physical document in the form of a bond, note, or certificate of indebtedness, rather than simply by an accounting entry. Requires interest payments and proceeds from the sale or redemption of trust fund holdings to be paid by checks drawn on the general fund of the Treasury. The provision is effective 60 days after enactment.

GAO STUDY REGARDING TELEPHONE ACCESS TO LOCAL OFFICES OF THE SOCIAL SECURITY ADMINISTRATION

Requires GAO to assess SSA's use of innovative technology to increase public telephone access to local Social Security offices (both phase I and II) and to report to the House Committee on Ways and Means and the Senate Committee on Finance no later than January 31, 1996.

EXPANSION OF STATE OPTION TO EXCLUDE SERVICE OF ELECTION OFFICIALS OR ELECTION WORKERS FROM COVERAGE

Increases from \$100 to \$1,000 a year the amount an election worker must be paid for the earnings to be covered under Social Security or Medicare. Beginning in the year 2000, the coverage threshold increases automatically as wage levels rise. The provision is effective January 1, 1995.

USE OF SOCIAL SECURITY NUMBERS FOR JURY SELECTION PURPOSES

Allows State and local governments and Federal district courts to use Social Security numbers to eliminate duplicate names and convicted felons from jury selection lists. The provision is effective upon enactment.

AUTHORIZATION FOR ALL STATES TO EXTEND COVERAGE TO STATE AND LOCAL POLICE OFFICERS AND FIREFIGHTERS UNDER EXISTING COVERAGE AGREEMENTS

Gives all States, rather than only those now specifically authorized to do so, the option to extend Social Security coverage to police officers and firefighters who are under a retirement system. The provision is effective upon enactment.

LIMITED EXEMPTION FOR CANADIAN MINISTERS FROM CERTAIN SELF-EMPLOYMENT TAX LIABILITY

Exempts certain ministers who were American citizens and residents of Canada from liability for unpaid Social Security taxes and related penalties for 1979 through 1984. The provision is effective with respect to individuals who file a certificate with the Internal Revenue Service within 180 days after it issues implementing regulations.

EXCLUSION OF TOTALIZATION BENEFITS FROM THE APPLICATION OF THE WINDFALL ELIMINATION PROVISION

Disregards the windfall elimination provision in computing (1) the regular U.S. benefit of a person who receives a foreign totalization benefit that includes U.S. employment, provided they receive no other pension based on noncovered employment; and (2) any U.S. totalization benefit. The provision is effective for benefits for months after December 1994.

EXCLUSION OF MILITARY RESERVISTS FROM APPLICATION OF THE GOVERNMENT PENSION OFFSET AND THE WINDFALL ELIMINATION PROVISIONS

Excludes from the application of both the government pension offset and windfall elimination provisions military pensions that are based, at least in part, on noncovered

military reserve duty after 1956 and before 1988. The provision is effective for benefits for months after December 1994.

REPEAL OF THE FACILITY-OF-PAYMENT PROVISION

Repeals the facility-of-payment provision, under which deductions are not now imposed against the benefits of an auxiliary beneficiary to whom they otherwise would apply if the maximum family benefit would continue to be payable to other auxiliaries living in the same household. Following repeal, deductions will be made for the beneficiary to whom they apply, and the benefits withheld will be redistributed to other entitled auxiliaries living in the same household as the auxiliary who is subject to deductions. The provision is effective for benefits payable for months after December 1995.

MAXIMUM FAMILY BENEFITS IN GUARANTEE CASES

Uses the maximum family benefit in effect in the last month of a worker's prior entitlement to disability benefits for the purpose of determining the maximum family benefit under a subsequent period of entitlement. The provision is effective for beneficiaries who become reentitled after December 1995, and for survivors of beneficiaries who die after December 1995 after previously having been entitled.

AUTHORIZATION FOR DISCLOSURE OF SSA INFORMATION FOR PURPOSES OF PUBLIC OR PRIVATE EPIDEMIOLOGICAL AND SIMILAR RESEARCH

Requires SSA, on a reimbursable basis, to disclose information showing whether an individual is alive or deceased, if it is needed for epidemiological or similar research that the Secretary of Health and Human Services determines has reasonable promise of contributing to national health interests. Requestors must agree to safeguard and to limit re-release of the information. The provision is effective upon enactment.

MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY ADMINISTRATION (SSA) OR DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Broadens present-law deterrents against misleading mailings about Social Security and Medicare by:

- Requiring specific written authorization from SSA or HHS for a person to reproduce, reprint, or distribute for a fee any SSA or HHS form, application, or other SSA or HHS publication;
- Providing that a disclaimer on a mailing does not provide a defense against misleading mailing violations;
- Providing that each piece of mail in an illegal mass mailing constitutes a violation;
- Adding names, letters, symbols, and emblems of SSA, HCFA, SSI, and HHS to the items protected by the misleading advertising prohibitions;
- Removing the \$100,000 annual cap on civil penalties that may be imposed for misleading advertising activities, and providing that penalties SSA collects are to be deposited in the OASI Trust Fund; and
- Requiring the Secretary and the Commissioner to report on the operation and enforcement of this provision to the Senate Committee on Finance and the House Committee on Ways and Means. The reports are due to the committees by December 1 of 1995, 1997, and 1999.

The provision is effective for violations occurring after March 31, 1995.

INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION

Makes unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act a felony. Each violation is punishable by a fine of up to \$10,000, imprisonment for up to 5 years, or both. The provision is effective upon enactment.

INCREASE IN AUTHORIZED PERIOD FOR EXTENSION OF TIME TO FILE ANNUAL EARNINGS REPORT

Extends from 3 months to 4 months the additional time that an individual may be granted to file an annual earnings report. The provision is effective with respect to reports of earnings for taxable years ending on or after December 31, 1994.

EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY

Extends for 3 years (through June 10, 1996) authority to waive Social Security or Medicare benefit requirements in connection with demonstration projects and studies designed to promote the objectives or facilitate the administration of the Social Security disability insurance program and encourage disabled beneficiaries to return to work. A final report is due no later than October 1, 1996. The provision is effective upon enactment.

CROSS-MATCHING OF SOCIAL SECURITY ACCOUNT NUMBER INFORMATION AND EMPLOYER IDENTIFICATION NUMBER INFORMATION MAINTAINED BY THE DEPARTMENT OF AGRICULTURE

Permits the Department of Agriculture to disclose retail operators' names, Social Security numbers, and Employer Identification numbers to other Federal agencies for the purpose of investigating food stamp fraud and violations of other Federal laws. The provision is effective upon enactment.

CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT MADE PERMANENT

Makes permanent the provision that proceeds from the income taxation of railroad retirement tier 2 benefits be deposited in the railroad retirement account, rather than the General Fund of the Treasury. The change is effective for income taxes on tier 2 benefits received after September 30, 1992 (when the authority for depositing the proceeds from these income taxes in the railroad retirement account was last applicable).

AUTHORIZE THE DEPARTMENT OF LABOR TO USE SOCIAL SECURITY NUMBERS AS CLAIM IDENTIFICATION NUMBERS

Permits the Department of Labor to use Social Security numbers as claim identification numbers for workers' compensation claims. The provision is effective upon enactment.

COVERAGE UNDER FICA OF FEDERAL EMPLOYEES TRANSFERRED TEMPORARILY TO INTERNATIONAL ORGANIZATIONS

Continues the Social Security coverage of Federal civilian employees temporarily assigned to an international organization, regardless of whether the international organization is within or outside the United States. Employees are to pay their share of the Social Security tax on their earnings and the loaning agency is to pay the employer's share of the tax. The provision is effective for services performed after the calendar quarter following the calendar quarter of the date of enactment.

EXTEND THE FICA TAX EXEMPTION AND CERTAIN TAX RULES TO INDIVIDUALS WHO ENTER THE UNITED STATES UNDER A VISA ISSUED UNDER SECTION 101(A)(15)(Q) OF THE IMMIGRATION AND NATIONALITY ACT

Excludes from Social Security coverage aliens who enter the United States as part of a cultural exchange program. The provision is effective with the calendar quarter following the date of enactment.

ELIMINATION OF ROUNDING DISTORTION IN THE CALCULATION OF THE CONTRIBUTION AND BENEFIT BASE AND EARNINGS TEST EXEMPT AMOUNTS

Designates 1994 as the base year to be used in calculating increases in the OASDI contribution and benefit base and earnings test exempt amounts for all years after 1994. (Increases in these amounts will no longer be based on the rounded amounts applicable in the previous year, which can distort the base and exempt amounts over time.) The provision is effective for the contribution and benefit base beginning in 1995 and for earnings test exempt amounts for taxable years ending after 1994.

COMMISSION ON CHILDHOOD DISABILITY

Requires the Secretary to appoint, by January 1, 1995, not less than 9 nor more than 15 experts to a Commission on the "Evaluation of Disability in Children." The Commission, in consultation with the National Academy of Sciences, is to conduct a study on the effect of the current Supplemental Security Income definition of disability as it applies to children under the age of 18 and their receipt of services, including the appropriateness of an alternative definition. The Commission also is to examine the

feasibility of providing non-cash benefits to children; the feasibility of prorating Zebly lump sum retroactive benefits or holding them in trust; the extent to which SSA can involve private organizations to increase social services, education, and vocational instruction aimed at promoting independence and the ability to engage in substantial gainful activity (SGA); and the desirability and methods of increasing the extent to which benefits are used to help a child achieve independence and engage in SGA.

The Commission is required to report its results and any recommendations to the House Committee on Ways and Means and the Senate Committee on Finance by November 30, 1995.

REGULATIONS REGARDING COMPLETION OF PLANS FOR ACHIEVING SELF-SUPPORT (PASS) UNDER THE SSI PROGRAM

Requires SSA to revise its regulations to take the needs of an individual into account in determining the time necessary for completion of a PASS. The provision is effective January 1, 1995.

GAO REPORT ON PLANS FOR ACHIEVING SELF-SUPPORT

Although the conference did not agree to a House-passed provision to deem plans for achieving self-support (PASS) approved if they are not disapproved within 60 days, the conferees instructed the GAO to study the PASS provision. GAO's study would include data for the past 5 years on the number and characteristics of individuals who have applied for PASS, the kinds and durations of PASS approved and completed, and the extent to which individuals' PASS have led to their economic self-sufficiency. GAO would include any recommendations for improvements in the PASS provision in its report to the House Committee on Ways and Means and the Senate Committee on Finance.

SSI ELIGIBILITY FOR STUDENTS TEMPORARILY ABROAD

Allows individuals who leave the United States temporarily as part of an educational program that is not available in the United States, that is designed for gainful employment, and that is sponsored by a school in the United States to continue receiving SSI benefits for up to 1 year if they were eligible for SSI the month they left the country. The provision is effective January 1, 1995.

DISREGARD OF COST-OF-LIVING INCREASES FOR CONTINUED ELIGIBILITY FOR WORK INCENTIVES

Continues Medicaid under section 1619(b) for an individual whose Social Security cost-of-living increase otherwise would make them ineligible because of excess unearned income. The provision is effective for eligibility determinations for months after December 1994.

PROVISIONS TO COMBAT OASDI AND SSI PROGRAM FRAUD

Strengthens present law in deterring fraud and abuse in the OASDI and SSI programs by:

--Requiring that third-party translators certify under oath the accuracy of their translations, whether they are acting as the applicant's legal representative, and their relationship to the applicant.

--Authorizing civil penalties to be imposed against third parties, medical professionals, and OASDI beneficiaries and SSI recipients who engage in fraudulent schemes to enroll ineligible individuals in the OASDI and SSI programs. In addition, medical professionals may be barred from participation in Medicare and Medicaid.

--Treating SSI fraud as a felony.

--Clarifying SSA's authority to reopen OASDI and SSI cases where there is reason to believe that an application or supporting documents are fraudulent, and to terminate benefits expeditiously in cases where SSA determines that there is insufficient reliable evidence of disability.

--Requiring the Inspector General to immediately notify SSA about OASDI and SSI cases under investigation for fraud, and requiring SSA to immediately reopen such cases where there is reason to believe that an application or supporting documents are fraudulent, unless the U.S. Attorney or equivalent State prosecutor determines that doing so would jeopardize criminal prosecution of the parties involved.

--Requiring SSA to obtain and utilize, to the extent it is useful, pre-admission immigrant and refugee medical information, identification information, and employment history compiled by the Immigration and Naturalization Service or the Centers for Disease Control when developing SSI claims for aliens.

--Requiring SSA to submit an annual report to the House Committee on Ways and Means and the Senate Committee on Finance on the extent to which it has reviewed OASDI and SSI cases, including the extent to which the cases reviewed involved a high likelihood or probability of fraud.

The provisions are effective October 1, 1994.

DISABILITY REVIEWS FOR SSI RECIPIENTS

Requires SSA, in each of fiscal years 1996, 1997, and 1998, to perform CDRs for a minimum of 100,000 SSI recipients and one-third of all childhood SSI recipients who are between age 18 and age 19. The latter provision applies to individuals who attain age 18 in or after the 9th month after enactment. Requires SSA to report its findings on these two provisions to the House Committee on Ways and Means and the Senate Committee on Finance no later than October 1, 1998.

EXEMPTION FROM ADJUSTMENT IN PASSALONG REQUIREMENTS

Allows States the option of exempting Zebley-related retroactive State supplementary payments from the annual supplementary payments expenditure amount that a State must maintain in the following year in order to meet the passalong requirement. Effective before, on, and after date of enactment.

LISTING OF REFERENCE MATERIALS

U.S. Congress. Senate. Committee on Finance. Hearing on Establishing the Social Security Administration As An Independent Agency. September 14, 1993. 103rd Congress, 1st Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Human Resources. Oversight hearing on Supplemental Security Income. October 14, 1993. 103rd Congress, 1st Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Social Security. Hearing on Reinventing the Social Security Administration. October 28, 1993. 103rd Congress, 1st Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Social Security and Subcommittee on Human Resources. Hearing on Exploring Means of Achieving Higher Rates of Treatment and Rehabilitation Among Alcoholics and Drug Addicts Receiving Federal Disability Benefits. February 10, 1994. 103rd Congress, 2nd Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Oversight and Subcommittee on Human Resources. Hearing on Supplemental Security Income Fraud Involving Middlemen. February 24, 1994. 103rd Congress, 2nd Session.

U.S. Congress. House. Committee on Ways and Means, Subcommittee on Social Security. Hearing on Measures to Protect the Integrity of the Social Security Disability Insurance Program By Insuring That People Who Are No Longer Disabled Are Terminated From the Disability Benefit Rolls. March 10, 1994. 103rd Congress, 2nd Session.

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