

**TICKET TO WORK AND WORK INCENTIVES  
IMPROVEMENT ACT OF 1999**

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**H.R. 1180**

**PUBLIC LAW 106-170  
106TH CONGRESS**

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

**Social Security Administration**

**TICKET TO WORK AND WORK INCENTIVES  
IMPROVEMENT ACT OF 1999**

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**Volumes 1-2**

**H.R. 1180**

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**Social Security Administration**

**Office of the Deputy Commissioner for  
Legislation and Congressional Affairs**

## **PREFACE**

This 2-volume compilation contains historical documents pertaining to P.L. 106-170, the “Ticket to Work and Work Incentives Improvement Act of 1999.” These books contain congressional debates and a chronological compilation of documents pertinent to the legislative history of the public law.

Pertinent documents include:

- Differing versions of key bills
- Committee Reports
- Excerpts from the Congressional Record
- The Public Law
- Legislative Bulletins

The books are prepared by the Office of the Deputy Commissioner for Legislation and Congressional Affairs and are designed to serve as helpful resource tools for those charged with interpreting laws administered by the Social Security Administration.

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abled in this country. We have passed the legislation 99-0. It has been in the House of Representatives for several months. I hope at the time we are announcing we are going to appoint conferees, we would have at least some indication from the leadership as to when we are going to get to conference. I know millions of disabled Americans across this country will want to know what the intention of the leadership is on this legislation.

Can the Senator give us some idea?

Mr. SANTORUM. I say to the Senator from Massachusetts, first, I think this bill we are considering right now has a far greater impact on people with disabilities to come than this piece of legislation. But that being said, I am just doing this on behalf of the leader. I have not conferred with the leader as to what his plans are, so I am unable to answer the Senator's question.

Mr. KENNEDY. Further reserving the right to object, and I will not at this time, I think this legislation is of enormous importance. We are very hopeful we will get an early conference on it and we will get a favorable resolution. This has passed 99-0 in our body. It is a good bill that came out of the House. It is legislation we ought to complete before we adjourn.

I have no objection.

There being no objection, the Presiding Officer (Mr. HAGEL) appointed Mr. ROTH, Mr. LOTT, and Mr. MOYNIHAN conferees on the part of the Senate.

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WORK INCENTIVES IMPROVEMENT  
ACT OF 1999

Mr. SANTORUM. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of H.R. 1180, the work incentives bill. I further ask consent that all after the enacting clause be stricken and the text of S. 331, as passed by the Senate, be inserted in lieu thereof. I further ask the bill be read a third time and passed, the motion to reconsider be laid upon the table, the Senate then insist upon its amendment, and request a conference with the House.

I further ask consent that nothing in this agreement shall alter the provisions of the consent agreement on June 14, 1999, relating to S. 331.

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

The bill (H.R. 1180), as amended, was read the third time and passed.

(The text of S. 331 is printed in the CONGRESSIONAL RECORD of June 16, 1999.)

Mr. SANTORUM. Mr. President, I ask unanimous consent the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object, I reserve the right to object, Mr. President.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. KENNEDY. If the Senator from Pennsylvania is the acting leader, could he give us some indication of when we will go to conference on that legislation? It is the most important piece of legislation affecting the dis-





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APPOINTMENT OF CONFEREES ON  
H.R. 1180, TICKET TO WORK AND  
WORK INCENTIVES IMPROVE-  
MENT ACT OF 1999

Mr. ARCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none and, without objection, appoints the following conferees: Messrs. ARCHER, BLILEY, ARMEY, RANGEL, and DINGELL.

There was no objection.

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TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT  
ACT OF 1999

NOVEMBER 17, 1999.—Ordered to be printed

Mr. ARCHER, from the committee on conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 1180]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1180), to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, 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; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—*This Act may be cited as the "Ticket to Work and Work Incentives Improvement Act of 1999".*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Findings and purposes.*

**TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS**

*Subtitle A—Ticket to Work and Self-Sufficiency*

*Sec. 101. Establishment of the Ticket to Work and Self-Sufficiency Program.*

*Subtitle B—Elimination of Work Disincentives*

- Sec. 111. *Work activity standard as a basis for review of an individual's disabled status.*  
 Sec. 112. *Expedited reinstatement of disability benefits.*

*Subtitle C—Work Incentives Planning, Assistance, and Outreach*

- Sec. 121. *Work incentives outreach program.*  
 Sec. 122. *State grants for work incentives assistance to disabled beneficiaries.*

**TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES**

- Sec. 201. *Expanding State options under the medicaid program for workers with disabilities.*  
 Sec. 202. *Extending medicare coverage for OASDI disability benefit recipients.*  
 Sec. 203. *Grants to develop and establish State infrastructures to support working individuals with disabilities.*  
 Sec. 204. *Demonstration of coverage under the medicaid program of workers with potentially severe disabilities.*  
 Sec. 205. *Election by disabled beneficiaries to suspend medigap insurance when covered under a group health plan.*

**TITLE III—DEMONSTRATION PROJECTS AND STUDIES**

- Sec. 301. *Extension of disability insurance program demonstration project authority.*  
 Sec. 302. *Demonstration projects providing for reductions in disability insurance benefits based on earnings.*  
 Sec. 303. *Studies and reports.*

**TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

- Sec. 401. *Technical amendments relating to drug addicts and alcoholics.*  
 Sec. 402. *Treatment of prisoners.*  
 Sec. 403. *Revocation by members of the clergy of exemption from social security coverage.*  
 Sec. 404. *Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.*  
 Sec. 405. *Authorization for State to permit annual wage reports.*  
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 Sec. 411. *Bonus commodities.*  
 Sec. 412. *Simplification of definition of foster child under EIC.*  
 Sec. 413. *Delay of effective date of organ procurement and transplantation network final rule.*

**TITLE V—TAX RELIEF EXTENSION ACT OF 1999**

- Sec. 500. *Short title of title.*

*Subtitle A—Extensions*

- Sec. 501. *Allowance of nonrefundable personal credits against regular and minimum tax liability.*  
 Sec. 502. *Research credit.*  
 Sec. 503. *Subpart F exemption for active financing income.*  
 Sec. 504. *Taxable income limit on percentage depletion for marginal production.*  
 Sec. 505. *Work opportunity credit and welfare-to-work credit.*  
 Sec. 506. *Employer-provided educational assistance.*  
 Sec. 507. *Extension and modification of credit for producing electricity from certain renewable resources.*  
 Sec. 508. *Extension of duty-free treatment under Generalized System of Preferences.*  
 Sec. 509. *Extension of credit for holders of qualified zone academy bonds.*  
 Sec. 510. *Extension of first-time homebuyer credit for District of Columbia.*  
 Sec. 511. *Extension of expensing of environmental remediation costs.*  
 Sec. 512. *Temporary increase in amount of rum excise tax covered over to Puerto Rico and Virgin Islands.*

*Subtitle B—Other Time-Sensitive Provisions*

- Sec. 521. Advance pricing agreements treated as confidential taxpayer information.*  
*Sec. 522. Authority to postpone certain tax-related deadlines by reason of Y2K failures.*  
*Sec. 523. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines.*  
*Sec. 524. Delay in effective date of requirement for approved diesel or kerosene terminals.*  
*Sec. 525. Production flexibility contract payments.*

*Subtitle C—Revenue Offsets*

**PART I—GENERAL PROVISIONS**

- Sec. 531. Modification of estimated tax safe harbor.*  
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- Sec. 551. Health care REITs.*

**SUBPART C—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES**

- Sec. 556. Conformity with regulated investment company rules.*

**SUBPART D—CLARIFICATION OF EXCEPTION FROM IMPERMISSIBLE TENANT SERVICE INCOME**

- Sec. 561. Clarification of exception for independent operators.*

**SUBPART E—MODIFICATION OF EARNINGS AND PROFITS RULES**

- Sec. 566. Modification of earnings and profits rules.*

**SUBPART F—MODIFICATION OF ESTIMATED TAX RULES**

- Sec. 571. Modification of estimated tax rules for closely held real estate investment trusts.*

**SEC. 2. FINDINGS AND PURPOSES.**

- (a) FINDINGS.—The Congress makes the following findings:*  
*(1) It is the policy of the United States to provide assistance to individuals with disabilities to lead productive work lives.*  
*(2) Health care is important to all Americans.*  
*(3) Health care is particularly important to individuals with disabilities and special health care needs who often cannot afford the insurance available to them through the private market, are uninsurable by the plans available in the private sector,*

and are at great risk of incurring very high and economically devastating health care costs.

(4) Americans with significant disabilities often are unable to obtain health care insurance that provides coverage of the services and supports that enable them to live independently and enter or rejoin the workforce. Personal assistance services (such as attendant services, personal assistance with transportation to and from work, reader services, job coaches, and related assistance) remove many of the barriers between significant disability and work. Coverage for such services, as well as for prescription drugs, durable medical equipment, and basic health care are powerful and proven tools for individuals with significant disabilities to obtain and retain employment.

(5) For individuals with disabilities, the fear of losing health care and related services is one of the greatest barriers keeping the individuals from maximizing their employment, earning potential, and independence.

(6) Social Security Disability Insurance and Supplemental Security Income beneficiaries risk losing medicare or medicaid coverage that is linked to their cash benefits, a risk that is an equal, or greater, work disincentive than the loss of cash benefits associated with working.

(7) Individuals with disabilities have greater opportunities for employment than ever before, aided by important public policy initiatives such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), advancements in public understanding of disability, and innovations in assistive technology, medical treatment, and rehabilitation.

(8) Despite such historic opportunities and the desire of millions of disability recipients to work and support themselves, fewer than one-half of one percent of Social Security Disability Insurance and Supplemental Security Income beneficiaries leave the disability rolls and return to work.

(9) In addition to the fear of loss of health care coverage, beneficiaries cite financial disincentives to work and earn income and lack of adequate employment training and placement services as barriers to employment.

(10) Eliminating such barriers to work by creating financial incentives to work and by providing individuals with disabilities real choice in obtaining the services and technology they need to find, enter, and maintain employment can greatly improve their short- and long-term financial independence and personal well-being.

(11) In addition to the enormous advantages such changes promise for individuals with disabilities, redesigning government programs to help individuals with disabilities return to work may result in significant savings and extend the life of the Social Security Disability Insurance Trust Fund.

(12) If only an additional one-half of one percent of the current Social Security Disability Insurance and Supplemental Security Income recipients were to cease receiving benefits as a result of employment, the savings to the Social Security Trust Funds and to the Treasury in cash assistance would total \$3,500,000,000 over the worklife of such individuals, far exceed-

ing the cost of providing incentives and services needed to assist them in entering work and achieving financial independence to the best of their abilities.

(b) *PURPOSES.*—The purposes of this Act are as follows:

(1) To provide health care and employment preparation and placement services to individuals with disabilities that will enable those individuals to reduce their dependency on cash benefit programs.

(2) To encourage States to adopt the option of allowing individuals with disabilities to purchase medicaid coverage that is necessary to enable such individuals to maintain employment.

(3) To provide individuals with disabilities the option of maintaining medicare coverage while working.

(4) To establish a return to work ticket program that will allow individuals with disabilities to seek the services necessary to obtain and retain employment and reduce their dependency on cash benefit programs.

## **TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS**

### **Subtitle A—Ticket to Work and Self-Sufficiency**

#### **SEC. 101. ESTABLISHMENT OF THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.**

(a) *IN GENERAL.*—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

#### **“THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM**

“*SEC. 1148. (a) IN GENERAL.*—The Commissioner shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

“(b) *TICKET SYSTEM.*—

“(1) *DISTRIBUTION OF TICKETS.*—The Commissioner may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

“(2) *ASSIGNMENT OF TICKETS.*—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

“(3) *TICKET TERMS.*—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support



services as the employment network may provide to the beneficiary.

"(4) **PAYMENTS TO EMPLOYMENT NETWORKS.**—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

"(c) **STATE PARTICIPATION.**—

"(1) **IN GENERAL.**—Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may elect to participate in the Program as an employment network with respect to a disabled beneficiary. If the State agency does elect to participate in the Program, the State agency also shall elect to be paid under the outcome payment system or the outcome-milestone payment system in accordance with subsection (h)(1). With respect to a disabled beneficiary that the State agency does not elect to have participate in the Program, the State agency shall be paid for services provided to that beneficiary under the system for payment applicable under section 222(d) and subsections (d) and (e) of section 1615. The Commissioner shall provide for periodic opportunities for exercising such elections.

"(2) **EFFECT OF PARTICIPATION BY STATE AGENCY.**—

"(A) **STATE AGENCIES PARTICIPATING.**—In any case in which a State agency described in paragraph (1) elects under that paragraph to participate in the Program, the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(B) **STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.**—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

"(3) **AGREEMENTS BETWEEN STATE AGENCIES AND EMPLOYMENT NETWORKS.**—State agencies and employment networks shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an employment network to a State agency for services. The Commissioner shall establish by regulations the timeframe within which such agreements must be entered into and the mechanisms for dispute resolution between State agencies and employment networks with respect to such agreements.

"(d) **RESPONSIBILITIES OF THE COMMISSIONER.**—

"(1) **SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.**—The Commissioner shall enter into agreements with 1 or more organizations in the private or public sector for service as a program manager to assist the Commissioner in admin-

istering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

"(2) **TENURE, RENEWAL, AND EARLY TERMINATION.**—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include—

"(A) measures for ease of access by beneficiaries to services; and

"(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

"(3) **PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.**—Agreements under paragraph (1) shall preclude—

"(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement; and

"(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

"(4) **SELECTION OF EMPLOYMENT NETWORKS.**—

"(A) **IN GENERAL.**—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

"(B) **ALTERNATE PARTICIPANTS.**—In any State where the Program is being implemented, the Commissioner shall enter into an agreement with any alternate participant that is operating under the authority of section 222(d)(2) in the State as of the date of the enactment of this section and chooses to serve as an employment network under the Program.

"(5) **TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.**—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

"(6) **QUALITY ASSURANCE.**—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall solicit and consider the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service re-

ipients as they select employment networks. The Commissioner shall ensure that the periodic surveys of beneficiaries receiving services under the Program are designed to measure customer service satisfaction.

“(7) **DISPUTE RESOLUTION.**—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

“(e) **PROGRAM MANAGERS.**—

“(1) **IN GENERAL.**—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner’s duties in administering the Program.

“(2) **RECRUITMENT OF EMPLOYMENT NETWORKS.**—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager’s agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

“(3) **FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.**—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks without being deemed to have rejected services under the Program. When such a change occurs, the program manager shall reassign the ticket based on the choice of the beneficiary. Upon the request of the employment network, the program manager shall make a determination of the allocation of the outcome or milestone-outcome payments based on the services provided by each employment network. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible formats.

“(4) **ENSURING AVAILABILITY OF ADEQUATE SERVICES.**—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are

provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

"(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Services provided under the Program may include case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are available in each service area.

"(f) EMPLOYMENT NETWORKS.—

"(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—

"(A) IN GENERAL.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, that assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b).

"(B) ONE-STOP DELIVERY SYSTEMS.—An employment network serving under the Program may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

"(C) COMPLIANCE WITH SELECTION CRITERIA.—No employment network may serve under the Program unless it meets and maintains compliance with both general selection criteria (such as professional and educational qualifications, where applicable) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports).

"(D) SINGLE OR ASSOCIATED PROVIDERS ALLOWED.—An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

"(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

"(A) serve prescribed service areas; and

"(B) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or

*under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subsection (g).*

*"(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.*

*"(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.*

*"(g) INDIVIDUAL WORK PLANS.—*

*"(1) REQUIREMENTS.—Each employment network shall—*

*"(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subparagraph (C);*

*"(B) develop and implement each such individual work plan, in partnership with each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal;*

*"(C) ensure that each individual work plan includes at least—*

*"(i) a statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;*

*"(ii) a statement of the services and supports that have been deemed necessary for the beneficiary to accomplish that goal;*

*"(iii) a statement of any terms and conditions related to the provision of such services and supports; and*

*"(iv) a statement of understanding regarding the beneficiary's rights under the Program (such as the right to retrieve the ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network) and remedies available to the individual, including information on the availability of advocacy services and assistance in*

resolving disputes through the State grant program authorized under section 1150;

"(D) provide a beneficiary the opportunity to amend the individual work plan if a change in circumstances necessitates a change in the plan; and

"(E) make each beneficiary's individual work plan available to the beneficiary in, as appropriate, an accessible format chosen by the beneficiary.

"(2) EFFECTIVE UPON WRITTEN APPROVAL.—A beneficiary's individual work plan shall take effect upon written approval by the beneficiary or a representative of the beneficiary and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary's ticket to work and self-sufficiency.

"(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

"(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

"(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

"(B) NO CHANGE IN METHOD OF PAYMENT FOR BENEFICIARIES WITH TICKETS ALREADY ASSIGNED TO THE EMPLOYMENT NETWORKS.—Any election of a payment system by an employment network that would result in a change in the method of payment to the employment network for services provided to a beneficiary who is receiving services from the employment network at the time of the election shall not be effective with respect to payment for services provided to that beneficiary and the method of payment previously selected shall continue to apply with respect to such services.

"(2) OUTCOME PAYMENT SYSTEM.—

"(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual because of work or earnings.

"(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

"(i) the payment for each month during the outcome payment period for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

"(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

"(3) **OUTCOME-MILESTONE PAYMENT SYSTEM.**—

"(A) **IN GENERAL.**—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) **EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.**—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure that provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

"(C) **LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.**—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

"(4) **DEFINITIONS.**—In this subsection:

"(A) **PAYMENT CALCULATION BASE.**—The term 'payment calculation base' means, for any calendar year—

"(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year; and

"(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 18 years of age but have not attained 65 years of age.

"(B) **OUTCOME PAYMENT PERIOD.**—The term 'outcome payment period' means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

“(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity; and

“(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity.

“(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

“(A) PERCENTAGES AND PERIODS.—The Commissioner shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner’s review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

“(B) NUMBER AND AMOUNTS OF MILESTONE PAYMENTS.—The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, or other reliable sources.

“(C) REPORT ON THE ADEQUACY OF INCENTIVES.—The Commissioner shall submit to the Congress not later than 36 months after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999 a re-



port with recommendations for a method or methods to adjust payment rates under subparagraphs (A) and (B), that would ensure adequate incentives for the provision of services by employment networks of—

“(i) individuals with a need for ongoing support and services;

“(ii) individuals with a need for high-cost accommodations;

“(iii) individuals who earn a subminimum wage; and

“(iv) individuals who work and receive partial cash benefits.

The Commissioner shall consult with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 during the development and evaluation of the study. The Commissioner shall implement the necessary adjusted payment rates prior to full implementation of the Ticket to Work and Self-Sufficiency Program.

“(i) **SUSPENSION OF DISABILITY REVIEWS.**—During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.

“(j) **AUTHORIZATIONS.**—

“(1) **PAYMENTS TO EMPLOYMENT NETWORKS.**—

“(A) **TITLE II DISABILITY BENEFICIARIES.**—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to make payments to employment networks under this section. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund.

“(B) **TITLE XVI DISABILITY BENEFICIARIES.**—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

“(2) **ADMINISTRATIVE EXPENSES.**—The costs of administering this section (other than payments to employment networks) shall be paid from amounts made available for the administration of title II and amounts made available for the ad-

ministration of title XVI, and shall be allocated among such amounts as appropriate.

“(k) DEFINITIONS.—In this section:

“(1) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means a title II disability beneficiary or a title XVI disability beneficiary.

“(3) TITLE II DISABILITY BENEFICIARY.—The term ‘title II disability beneficiary’ means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

“(4) TITLE XVI DISABILITY BENEFICIARY.—The term ‘title XVI disability beneficiary’ means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

“(5) SUPPLEMENTAL SECURITY INCOME BENEFIT.—The term ‘supplemental security income benefit under title XVI’ means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

“(l) REGULATIONS.—Not later than 1 year after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999, the Commissioner shall prescribe such regulations as are necessary to carry out the provisions of this section.”

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) is amended by adding at the end the following new paragraph:

“(5) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).”

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services”.

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 16; and  
 “(2) with respect to whom benefits are paid under this title, the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.”

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services”.

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting “(1)” after “(c)”; and

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

“(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).”

(c) **EFFECTIVE DATE.**—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following 1 year after the date of the enactment of this Act.

(d) **GRADUATED IMPLEMENTATION OF PROGRAM.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) **REQUIREMENTS.**—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) **FULL IMPLEMENTATION.**—The Commissioner shall ensure that ability to provide tickets and services to individuals under the Program exists in every State as soon as practicable on or after the effective date specified in subsection (c) but not later than 3 years after such date.

(4) **ONGOING EVALUATION OF PROGRAM.**—

(A) **IN GENERAL.**—The Commissioner shall provide for independent evaluations to assess the effectiveness of the

activities carried out under this section and the amendments made thereby. Such evaluations shall address the cost-effectiveness of such activities, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) *CONSULTATION.*—Evaluations shall be conducted under this paragraph after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program and in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, the Comptroller General of the United States, other agencies of the Federal Government, and private organizations with appropriate expertise.

(C) *METHODOLOGY.*—

(i) *IMPLEMENTATION.*—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, shall ensure that plans for evaluations and data collection methods under the Program are appropriately designed to obtain detailed employment information.

(ii) *SPECIFIC MATTERS TO BE ADDRESSED.*—Each such evaluation shall address (but is not limited to)—

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of individuals in possession of tickets under the Program who are not accepted for services and, to the extent reasonably

determinable, the reasons for which such beneficiaries were not accepted for services;

(VII) the characteristics of providers whose services are provided within an employment network under the Program;

(VIII) the extent (if any) to which employment networks display a greater willingness to provide services to beneficiaries with a range of disabilities;

(IX) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(X) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(XI) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of their tickets.

(D) **PERIODIC EVALUATION REPORTS.**—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) **EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.**—

(A) **IN GENERAL.**—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) of the Social Security Act (42 U.S.C. 422(a)) for prompt referrals to a State agency; and

(ii) the authority of the Commissioner under section 222(d)(2) of such Act (42 U.S.C. 422(d)(2)) to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals, shall apply in such State.

(B) *EXISTING AGREEMENTS.*—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act (42 U.S.C. 422(d)(2)) before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to services (if any) to be provided after 3 years after the effective date provided in subsection (c).

(e) *SPECIFIC REGULATIONS REQUIRED.*—

(1) *IN GENERAL.*—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) *SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.*—The matters which shall be addressed in such regulations shall include—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1148(b)(1) of the Social Security Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of such Act and provision for periodic opportunities for exercising such elections;

(D) the status of State agencies under section 1148(c)(1) of such Act at the time that State agencies exercise elections under that section;

(E) the terms of agreements to be entered into with program managers pursuant to section 1148(d) of such Act, including—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1148(d)(3) of such Act;

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1148(d) of such Act and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1148(e) of such Act; and

(iii) the format under which dispute resolution will operate under section 1148(d)(7) of such Act;

(F) the terms of agreements to be entered into with employment networks pursuant to section 1148(d)(4) of such Act, including—

(i) the manner in which service areas are specified pursuant to section 1148(f)(2)(A) of such Act;

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1148(f)(1)(C) of such Act in selecting service providers;

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1148(f)(3) of such Act; and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1148(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1148(g) of such Act;

(H) standards which must be met by payment systems required under section 1148(h) of such Act, including—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1148(h)(1)(A) of such Act;

(ii) the terms which must be met by an outcome payment system under section 1148(h)(2) of such Act;

(iii) the terms which must be met by an outcome-milestone payment system under section 1148(h)(3) of such Act;

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1148(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1148(h) of such Act; and

(v) annual oversight procedures for such systems;

and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(f) **THE TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL.**—

(1) **ESTABLISHMENT.**—There is established within the Social Security Administration a panel to be known as the “Ticket to Work and Work Incentives Advisory Panel” (in this subsection referred to as the “Panel”).

(2) **DUTIES OF PANEL.**—It shall be the duty of the Panel to—

(A) advise the President, the Congress, and the Commissioner of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act (42 U.S.C. 401 et seq., 1301 et seq., 1381 et seq., 1395 et seq., 1396 et seq.); and

(B) with respect to the Ticket to Work and Self-Sufficiency Program established under section 1148 of such Act—

(i) advise the Commissioner of Social Security with respect to establishing phase-in sites for such Program and fully implementing the Program thereafter, the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems, and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program;

(ii) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to section 302 of this Act;

(iii) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1148(d)(6) of the Social Security Act; and

(iv) furnish progress reports on the Program to the Commissioner and each House of Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 12 members as follows:

(i) 4 members appointed by the President, not more than 2 of whom may be of the same political party;

(ii) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives;

(iii) 2 members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Committee on Ways and Means of the House of Representatives;

(iv) 2 members appointed by the majority leader of the Senate, in consultation with the Chairman of the Committee on Finance of the Senate; and

(v) 2 members appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Finance of the Senate.

(B) REPRESENTATION.—

(i) IN GENERAL.—The members appointed under subparagraph (A) shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services.

(ii) REQUIREMENT.—At least one-half of the members appointed under subparagraph (A) shall be individuals with disabilities, or representatives of individuals with disabilities, with consideration given to current or former title II disability beneficiaries or title XVI disability beneficiaries (as such terms are defined in section 1148(k) of the Social Security Act (as added by subsection (a))).

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed under each clause of subparagraph



(A), as designated by the appointing authority for each such clause—

(I) one-half of such members shall be appointed for a term of 2 years; and

(II) the remaining members shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) BASIC PAY.—Members shall each be paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) QUORUM.—8 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—

(A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Chairperson, and paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) STAFF.—Subject to rules prescribed by the Commissioner of Social Security, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commissioner of Social Security, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places,

and take such testimony and evidence as the Panel considers appropriate.

(B) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) **MAILS.**—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) **REPORTS.**—

(A) **INTERIM REPORTS.**—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) **FINAL REPORT.**—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) **TERMINATION.**—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

#### **Subtitle B—Elimination of Work Disincentives**

##### **SEC. 111. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS.**

(a) **IN GENERAL.**—Section 221 of the Social Security Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

“(m)(1) In any case where an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)) has received such benefits for at least 24 months—

“(A) no continuing disability review conducted by the Commissioner may be scheduled for the individual solely as a result of the individual's work activity;

“(B) no work activity engaged in by the individual may be used as evidence that the individual is no longer disabled; and

“(C) no cessation of work activity by the individual may give rise to a presumption that the individual is unable to engage in work.

“(2) An individual to which paragraph (1) applies shall continue to be subject to—

“(A) continuing disability reviews on a regularly scheduled basis that is not triggered by work; and

“(B) termination of benefits under this title in the event that the individual has earnings that exceed the level of earnings es-

established by the Commissioner to represent substantial gainful activity.”

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall take effect on January 1, 2002.

**SEC. 112. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS.**

(a) *OASDI BENEFITS.*—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

*“Reinstatement of Entitlement*

*“(i)(1)(A) Entitlement to benefits described in subparagraph (B)(i)(I) shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of such entitlement shall be in accordance with the terms of this subsection.*

*“(B) An individual is described in this subparagraph if—*

*“(i) prior to the month in which the individual files a request for reinstatement—*

*“(I) the individual was entitled to benefits under this section or section 202 on the basis of disability pursuant to an application filed therefor; and*

*“(II) such entitlement terminated due to the performance of substantial gainful activity;*

*“(ii) the individual is under a disability and the physical or mental impairment that is the basis for the finding of disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of disability that gave rise to the entitlement described in clause (i); and*

*“(iii) the individual’s disability renders the individual unable to perform substantial gainful activity.*

*“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was entitled to a benefit described in subparagraph (B)(i)(I) prior to the entitlement termination described in subparagraph (B)(i)(II).*

*“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.*

*“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.*

*“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) and (iii) of paragraph (1)(B).*

*“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case*

of any individual who the Commissioner determines is not entitled to reinstated benefits under this subsection.

"(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of subsection (f) shall apply.

"(4)(A)(i) Subject to clause (ii), entitlement to benefits reinstated under this subsection shall commence with the benefit payable for the month in which a request for reinstatement is filed.

"(ii) An individual whose entitlement to a benefit for any month would have been reinstated under this subsection had the individual filed a request for reinstatement before the end of such month shall be entitled to such benefit for such month if such request for reinstatement is filed before the end of the twelfth month immediately succeeding such month.

"(B)(i) Subject to clauses (ii) and (iii), the amount of the benefit payable for any month pursuant to the reinstatement of entitlement under this subsection shall be determined in accordance with the provisions of this title.

"(ii) For purposes of computing the primary insurance amount of an individual whose entitlement to benefits under this section is reinstated under this subsection, the date of onset of the individual's disability shall be the date of onset used in determining the individual's most recent period of disability arising in connection with such benefits payable on the basis of an application.

"(iii) Benefits under this section or section 202 payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

"(C) No benefit shall be payable pursuant to an entitlement reinstated under this subsection to an individual for any month in which the individual engages in substantial gainful activity.

"(D) The entitlement of any individual that is reinstated under this subsection shall end with the benefits payable for the month preceding whichever of the following months is the earliest:

"(i) The month in which the individual dies.

"(ii) The month in which the individual attains retirement age.

"(iii) The third month following the month in which the individual's disability ceases.

"(5) Whenever an individual's entitlement to benefits under this section is reinstated under this subsection, entitlement to benefits payable on the basis of such individual's wages and self-employment income may be reinstated with respect to any person previously entitled to such benefits on the basis of an application if the Commissioner determines that such person satisfies all the requirements for entitlement to such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated entitlement of any such person to the same extent that they apply to the reinstated entitlement of such individual.

"(6) An individual to whom benefits are payable under this section or section 202 pursuant to a reinstatement of entitlement under this subsection for 24 months (whether or not consecutive) shall,

with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) and the determination, if appropriate, of the termination month in accordance with subsection (a)(1) of this section, or subsection (d)(1), (e)(1), or (f)(1) of section 202, to be entitled to such benefits on the basis of an application filed therefor.

“(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be entitled to provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under subsection (b) or (g) of section 205.

“(B) The amount of a provisional benefit for a month shall equal the amount of the last monthly benefit payable to the individual under this title on the basis of an application increased by an amount equal to the amount, if any, by which such last monthly benefit would have been increased as a result of the operation of section 215(i).

“(C)(i) Provisional benefits shall begin with the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

“(ii) Provisional benefits shall end with the earliest of—

“(I) the month in which the Commissioner makes a determination regarding the individual’s entitlement to reinstated benefits;

“(II) the fifth month following the month described in clause (i);

“(III) the month in which the individual performs substantial gainful activity; or

“(IV) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration made in accordance with paragraph (2)(A)(ii) is false.

“(D) In any case in which the Commissioner determines that an individual is not entitled to reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).”.

(b) SSI BENEFITS.—

(1) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

“Reinstatement of Eligibility on the Basis of Blindness or Disability

“(p)(1)(A) Eligibility for benefits under this title shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of eligibility shall be in accordance with the terms of this subsection.

*“(B) An individual is described in this subparagraph if—*

*“(i) prior to the month in which the individual files a request for reinstatement—*

*“(I) the individual was eligible for benefits under this title on the basis of blindness or disability pursuant to an application filed therefor; and*

*“(II) the individual thereafter was ineligible for such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;*

*“(ii) the individual is blind or disabled and the physical or mental impairment that is the basis for the finding of blindness or disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of blindness or disability that gave rise to the eligibility described in clause (i);*

*“(iii) the individual’s blindness or disability renders the individual unable to perform substantial gainful activity; and*

*“(iv) the individual satisfies the nonmedical requirements for eligibility for benefits under this title.*

*“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was eligible for a benefit under this title (including section 1619) prior to the period of ineligibility described in subparagraph (B)(i)(II).*

*“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.*

*“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.*

*“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) through (iv) of paragraph (1)(B).*

*“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this subsection.*

*“(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of section 1614(a)(4) shall apply.*

*“(4)(A) Eligibility for benefits reinstated under this subsection shall commence with the benefit payable for the month following the month in which a request for reinstatement is filed.*

*“(B)(i) Subject to clause (ii), the amount of the benefit payable for any month pursuant to the reinstatement of eligibility under this subsection shall be determined in accordance with the provisions of this title.*

*“(ii) The benefit under this title payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).*

*“(C) Except as otherwise provided in this subsection, eligibility for benefits under this title reinstated pursuant to a request filed under paragraph (2) shall be subject to the same terms and conditions as eligibility established pursuant to an application filed therefor.*

*“(5) Whenever an individual’s eligibility for benefits under this title is reinstated under this subsection, eligibility for such benefits shall be reinstated with respect to the individual’s spouse if such spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements for eligibility for such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.*

*“(6) An individual to whom benefits are payable under this title pursuant to a reinstatement of eligibility under this subsection for twenty-four months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) to be eligible for such benefits on the basis of an application filed therefor.*

*“(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c).*

*“(B)(i) Except as otherwise provided in clause (ii), the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual under this title with the same kind and amount of income.*

*“(ii) If the individual has a spouse who was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements of section 1614(b) except requirements related to the filing of an application, the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual and eligible spouse under this title with the same kind and amount of income.*

*“(C)(i) Provisional benefits shall begin with the month following the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).*

*“(ii) Provisional benefits shall end with the earliest of—*

*“(I) the month in which the Commissioner makes a determination regarding the individual’s eligibility for reinstated benefits;*

*“(II) the fifth month following the month for which provisional benefits are first payable under clause (i); or*

*“(III) the month in which the Commissioner determines that the individual does not meet the requirements of para-*

graph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

"(D) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

"(8) For purposes of this subsection other than paragraph (7), the term 'benefits under this title' includes State supplementary payments made pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66."

(2) CONFORMING AMENDMENTS.—

(A) Section 1631(j)(1) of such Act (42 U.S.C. 1383(j)(1)) is amended by striking the period and inserting ", or has filed a request for reinstatement of eligibility under subsection (p)(2) and been determined to be eligible for reinstatement."

(B) Section 1631(j)(2)(A)(i)(I) of such Act (42 U.S.C. 1383(j)(2)(A)(i)(I)) is amended by inserting "(other than pursuant to a request for reinstatement under subsection (p))" after "eligible".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(2) LIMITATION.—No benefit shall be payable under title II or XVI on the basis of a request for reinstatement filed under section 223(i) or 1631(p) of the Social Security Act (42 U.S.C. 423(i), 1383(p)) before the effective date described in paragraph (1).

**Subtitle C—Work Incentives Planning, Assistance, and Outreach**

**SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.**

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 101 of this Act, is amended by adding after section 1148 the following new section:

**"WORK INCENTIVES OUTREACH PROGRAM**

**"SEC. 1149. (a) ESTABLISHMENT.—**

**"(1) IN GENERAL.—**The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, shall establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to disabled beneficiaries on work incentives programs and issues related to such programs.

**"(2) GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND OUTREACH.—**Under the program established under this section, the Commissioner shall—



*“(A) establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148, the program established under section 1619, and other programs that are designed to encourage disabled beneficiaries to work;*

*“(B) conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts to disabled beneficiaries (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist disabled beneficiaries to work, including—*

*“(i) preparing and disseminating information explaining such programs; and*

*“(ii) working in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve disabled beneficiaries, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling;*

*“(C) establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will specialize in disability work incentives under titles II and XVI for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to—*

*“(i) disabled beneficiaries;*

*“(ii) benefit applicants under titles II and XVI; and*

*“(iii) individuals or entities awarded grants under subparagraphs (A) or (B); and*

*“(D) provide—*

*“(i) training for work incentives specialists and individuals providing planning assistance described in subparagraph (C); and*

*“(ii) technical assistance to organizations and entities that are designed to encourage disabled beneficiaries to return to work.*

*“(3) COORDINATION WITH OTHER PROGRAMS.—The responsibilities of the Commissioner established under this section shall be coordinated with other public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for disabled beneficiaries including the program under section 1619, the plans for achieving self-support program (PASS), and any other Federal or State work incentive programs that are designed to assist disabled beneficiaries, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), a one-stop delivery system established under subtitle B*

of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), and other services.

“(b) CONDITIONS.—

“(1) SELECTION OF ENTITIES.—

“(A) APPLICATION.—An entity shall submit an application for a grant, cooperative agreement, or contract to provide benefits planning and assistance to the Commissioner at such time, in such manner, and containing such information as the Commissioner may determine is necessary to meet the requirements of this section.

“(B) STATEWIDENESS.—The Commissioner shall ensure that the planning, assistance, and information described in paragraph (2) shall be available on a statewide basis.

“(C) ELIGIBILITY OF STATES AND PRIVATE ORGANIZATIONS.—

“(i) IN GENERAL.—The Commissioner may award a grant, cooperative agreement, or contract under this section to a State or a private agency or organization (other than Social Security Administration Field Offices and the State agency administering the State medicaid program under title XIX, including any agency or entity described in clause (ii), that the Commissioner determines is qualified to provide the planning, assistance, and information described in paragraph (2)).

“(ii) AGENCIES AND ENTITIES DESCRIBED.—The agencies and entities described in this clause are the following:

“(I) Any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732), and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the Commissioner determines satisfies the requirements of this section.

“(II) The State agency administering the State program funded under part A of title IV.

“(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to any entity that the Commissioner determines would have a conflict of interest if the entity were to receive a grant, cooperative agreement, or contract under this section.

“(2) SERVICES PROVIDED.—A recipient of a grant, cooperative agreement, or contract to provide benefits planning and assistance shall select individuals who will act as planners and provide information, guidance, and planning to disabled beneficiaries on the—

“(A) availability and interrelation of any Federal or State work incentives programs designed to assist disabled beneficiaries that the individual may be eligible to participate in;

“(B) adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health benefits coverage may be available to the individual; and

“(C) availability of protection and advocacy services for disabled beneficiaries and how to access such services.

**“(3) AMOUNT OF GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—**

“(A) **BASED ON POPULATION OF DISABLED BENEFICIARIES.**—Subject to subparagraph (B), the Commissioner shall award a grant, cooperative agreement, or contract under this section to an entity based on the percentage of the population of the State where the entity is located who are disabled beneficiaries.

“(B) **LIMITATIONS.—**

“(i) **PER GRANT.**—No entity shall receive a grant, cooperative agreement, or contract under this section for a fiscal year that is less than \$50,000 or more than \$300,000.

“(ii) **TOTAL AMOUNT FOR ALL GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.**—The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed \$23,000,000.

“(4) **ALLOCATION OF COSTS.**—The costs of carrying out this section shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

“(c) **DEFINITIONS.**—In this section:

“(1) **COMMISSIONER.**—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) **DISABLED BENEFICIARY.**—The term ‘disabled beneficiary’ has the meaning given that term in section 1148(k)(2).

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$23,000,000 for each of the fiscal years 2000 through 2004.”.

**SEC. 122. STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES.**

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 121 of this Act, is amended by adding after section 1149 the following new section:

**“STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES**

“SEC. 1150. (a) **IN GENERAL.**—Subject to subsection (c), the Commissioner may make payments in each State to the protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42

U.S.C. 6041 et seq.) for the purpose of providing services to disabled beneficiaries.

"(b) **SERVICES PROVIDED.**—Services provided to disabled beneficiaries pursuant to a payment made under this section may include—

"(1) information and advice about obtaining vocational rehabilitation and employment services; and

"(2) advocacy or other services that a disabled beneficiary may need to secure or regain gainful employment.

"(c) **APPLICATION.**—In order to receive payments under this section, a protection and advocacy system shall submit an application to the Commissioner, at such time, in such form and manner, and accompanied by such information and assurances as the Commissioner may require.

"(d) **AMOUNT OF PAYMENTS.**—

"(1) **IN GENERAL.**—Subject to the amount appropriated for a fiscal year for making payments under this section, a protection and advocacy system shall not be paid an amount that is less than—

"(A) in the case of a protection and advocacy system located in a State (including the District of Columbia and Puerto Rico) other than Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the greater of—

"(i) \$100,000; or

"(ii)  $\frac{1}{3}$  of 1 percent of the amount available for payments under this section; and

"(B) in the case of a protection and advocacy system located in Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, \$50,000.

"(2) **INFLATION ADJUSTMENT.**—For each fiscal year in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section in the preceding fiscal year, the Commissioner shall increase each minimum payment under subparagraphs (A) and (B) of paragraph (1) by a percentage equal to the percentage increase in the total amount so appropriated to carry out this section.

"(e) **ANNUAL REPORT.**—Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Commissioner and the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 on the services provided to individuals by the system.

"(f) **FUNDING.**—

"(1) **ALLOCATION OF PAYMENTS.**—Payments under this section shall be made from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

"(2) **CARRYOVER.**—Any amounts allotted for payment to a protection and advocacy system under this section for a fiscal year shall remain available for payment to or on behalf of the

protection and advocacy system until the end of the succeeding fiscal year.

**"(g) DEFINITIONS.—**In this section:

**"(1) COMMISSIONER.—**The term 'Commissioner' means the Commissioner of Social Security.

**"(2) DISABLED BENEFICIARY.—**The term 'disabled beneficiary' has the meaning given that term in section 1148(k)(2).

**"(3) PROTECTION AND ADVOCACY SYSTEM.—**The term 'protection and advocacy system' means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.).

**"(h) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated to carry out this section \$7,000,000 for each of the fiscal years 2000 through 2004."

## **TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES**

### **SEC. 201. EXPANDING STATE OPTIONS UNDER THE MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES.**

**(a) IN GENERAL.—**

**(1) STATE OPTION TO ELIMINATE INCOME, ASSETS, AND RESOURCE LIMITATIONS FOR WORKERS WITH DISABILITIES BUYING INTO MEDICAID.—**Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

**(A)** in subclause (XIII), by striking "or" at the end;

**(B)** in subclause (XIV), by adding "or" at the end; and

**(C)** by adding at the end the following new subclause:

**"(XV)** who, but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income, who is at least 16, but less than 65, years of age, and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish."

**(2) STATE OPTION TO PROVIDE OPPORTUNITY FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY TO BUY INTO MEDICAID.—**

**(A) ELIGIBILITY.—**Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1), is amended—

**(i)** in subclause (XIV), by striking "or" at the end;

**(ii)** in subclause (XV), by adding "or" at the end;

and

**(iii)** by adding at the end the following new subclause:

**"(XVI)** who are employed individuals with a medically improved disability described in section 1905(v)(1) and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish, but only if the State provides medical assistance to individuals described in subclause (XV);"

(B) DEFINITION OF EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

“(v)(1) The term ‘employed individual with a medically improved disability’ means an individual who—

“(A) is at least 16, but less than 65, years of age;

“(B) is employed (as defined in paragraph (2));

“(C) ceases to be eligible for medical assistance under section 1902(a)(10)(A)(ii)(XV) because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits under section 223(d) or 1614(a)(3); and

“(D) continues to have a severe medically determinable impairment, as determined under regulations of the Secretary.

“(2) For purposes of paragraph (1), an individual is considered to be ‘employed’ if the individual—

“(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

“(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined by the State and approved by the Secretary.”

(C) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (x), by striking “or” at the end;

(ii) in clause (xi), by adding “or” at the end; and

(iii) by inserting after clause (xi), the following new clause:

“(xii) employed individuals with a medically improved disability (as defined in subsection (v)).”

(3) STATE AUTHORITY TO IMPOSE INCOME-RELATED PREMIUMS AND COST-SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking “The State plan” and inserting “Subject to subsection (g), the State plan”; and

(B) by adding at the end the following new subsection:

“(g) With respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii)—

“(1) a State may (in a uniform manner for individuals described in either such subclause)—

“(A) require such individuals to pay premiums or other cost-sharing charges set on a sliding scale based on income that the State may determine; and

“(B) require payment of 100 percent of such premiums for such year in the case of such an individual who has income for a year that exceeds 250 percent of the income official poverty line (referred to in subsection (c)(1)) applicable to a family of the size involved, except that in the case of such an individual who has income for a year that does not exceed 450 percent of such poverty line, such requirement

may only apply to the extent such premiums do not exceed 7.5 percent of such income; and

“(2) such State shall require payment of 100 percent of such premiums for a year by such an individual whose adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for such year exceeds \$75,000, except that a State may choose to subsidize such premiums by using State funds which may not be federally matched under this title. In the case of any calendar year beginning after 2000, the dollar amount specified in paragraph (2) shall be increased in accordance with the provisions of section 215(i)(2)(A)(ii).”.

(4) PROHIBITION AGAINST SUPPLANTATION OF STATE FUNDS AND STATE FAILURE TO MAINTAIN EFFORT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (19) and inserting “; or”; and

(B) by inserting after such paragraph the following new paragraph:

“(20) with respect to amounts expended for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) for a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the level of State funds expended for such fiscal year for programs to enable working individuals with disabilities to work (other than for such medical assistance) is not less than the level expended for such programs during the most recent State fiscal year ending before the date of the enactment of this paragraph.”.

(b) CONFORMING AMENDMENTS.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by inserting “1902(a)(10)(A)(ii)(XV), 1902(a)(10)(A)(ii)(XVI),” before “1905(p)(1)”.

(c) GAO REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the amendments made by this section that examines—

(1) the extent to which higher health care costs for individuals with disabilities at higher income levels deter employment or progress in employment;

(2) whether such individuals have health insurance coverage or could benefit from the State option established under such amendments to provide a medicaid buy-in; and

(3) how the States are exercising such option, including—

(A) how such States are exercising the flexibility afforded them with regard to income disregards;

(B) what income and premium levels have been set;

(C) the degree to which States are subsidizing premiums above the dollar amount specified in section 1916(g)(2) of the Social Security Act (42 U.S.C. 1396o(g)(2)); and

(D) the extent to which there exists any crowd-out effect.

(d) *EFFECTIVE DATE.*—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000.

**SEC. 202. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS.**

(a) *IN GENERAL.*—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended by striking “24” and inserting “78”.

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall be effective on and after October 1, 2000.

(c) *GAO REPORT.*—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress that—

(1) examines the effectiveness and cost of the amendment made by subsection (a);

(2) examines the necessity and effectiveness of providing continuation of medicare coverage under section 226(b) of the Social Security Act (42 U.S.C. 426(b)) to individuals whose annual income exceeds the contribution and benefit base (as determined under section 230 of such Act (42 U.S.C. 430));

(3) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a sliding scale premium for individuals whose annual income exceeds such contribution and benefit base;

(4) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a premium buy-in by the beneficiary’s employer in lieu of coverage under private health insurance;

(5) examines the interrelation between the use of the continuation of medicare coverage under such section 226(b) and the use of private health insurance coverage by individuals during the extended period; and

(6) recommends such legislative or administrative changes relating to the continuation of medicare coverage for recipients of social security disability benefits as the Comptroller General determines are appropriate.

**SEC. 203. GRANTS TO DEVELOP AND ESTABLISH STATE INFRASTRUCTURES TO SUPPORT WORKING INDIVIDUALS WITH DISABILITIES.**

(a) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall award grants described in subsection (b) to States to support the design, establishment, and operation of State infrastructures that provide items and services to support working individuals with disabilities.

(2) *APPLICATION.*—In order to be eligible for an award of a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

(3) *DEFINITION OF STATE.*—In this section, the term “State” means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American



*Samoa, and the Commonwealth of the Northern Mariana Islands.*

**(b) GRANTS FOR INFRASTRUCTURE AND OUTREACH.—**

**(1) IN GENERAL.—***Out of the funds appropriated under subsection (e), the Secretary shall award grants to States to—*

**(A)** *support the establishment, implementation, and operation of the State infrastructures described in subsection (a); and*

**(B)** *conduct outreach campaigns regarding the existence of such infrastructures.*

**(2) ELIGIBILITY FOR GRANTS.—**

**(A) IN GENERAL.—***No State may receive a grant under this subsection unless the State demonstrates to the satisfaction of the Secretary that the State makes personal assistance services available under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to the extent necessary to enable individuals with disabilities to remain employed, including individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) if the State has elected to provide medical assistance under such plan to such individuals.*

**(B) DEFINITIONS.—***In this section:*

**(i) EMPLOYED.—***The term “employed” means—*

**(I)** *earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or*

**(II)** *being engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined and approved by the Secretary.*

**(ii) PERSONAL ASSISTANCE SERVICES.—***The term “personal assistance services” means a range of services, provided by 1 or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job.*

**(3) DETERMINATION OF AWARDS.—**

**(A) IN GENERAL.—***Subject to subparagraph (B), the Secretary shall develop a methodology for awarding grants to States under this section for a fiscal year in a manner that—*

**(i)** *rewards States for their efforts in encouraging individuals described in paragraph (2)(A) to be employed; and*

**(ii)** *does not provide a State that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) with proportionally more*

funds for a fiscal year than a State that has exercised such election.

(B) AWARD LIMITS.—

(i) MINIMUM AWARDS.—

(I) IN GENERAL.—Subject to subclause (II), no State with an approved application under this section shall receive a grant for a fiscal year that is less than \$500,000.

(II) PRO RATA REDUCTIONS.—If the funds appropriated under subsection (e) for a fiscal year are not sufficient to pay each State with an application approved under this section the minimum amount described in subclause (I), the Secretary shall pay each such State an amount equal to the pro rata share of the amount made available.

(ii) MAXIMUM AWARDS.—

(I) STATES THAT ELECTED OPTIONAL MEDICAID ELIGIBILITY.—No State that has an application that has been approved under this section and that has elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) shall receive a grant for a fiscal year that exceeds 10 percent of the total expenditures by the State (including the reimbursed Federal share of such expenditures) for medical assistance provided under such title for such individuals, as estimated by the State and approved by the Secretary.

(II) OTHER STATES.—The Secretary shall determine, consistent with the limit described in subclause (I), a maximum award limit for a grant for a fiscal year for a State that has an application that has been approved under this section but that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)).

(c) AVAILABILITY OF FUNDS.—

(1) FUNDS AWARDED TO STATES.—Funds awarded to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT AWARDED TO STATES.—Funds not awarded to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for awarding by the Secretary.

(d) ANNUAL REPORT.—A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of title II disability beneficiaries, as defined in section 1148(k)(3) of the Social Security Act (as added by section 101(a) of this Act) in the State, and title XVI disability beneficiaries, as defined in section 1148(k)(4) of the Social Security Act (as so added) in the State who return to work.

(e) APPROPRIATION.—

(1) *IN GENERAL.*—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to make grants under this section—

(A) for fiscal year 2001, \$20,000,000;

(B) for fiscal year 2002, \$25,000,000;

(C) for fiscal year 2003, \$30,000,000;

(D) for fiscal year 2004, \$35,000,000;

(E) for fiscal year 2005, \$40,000,000; and

(F) for each of fiscal years 2006 through 2011, the amount appropriated for the preceding fiscal year increased by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers (United States city average) for the preceding fiscal year.

(2) *BUDGET AUTHORITY.*—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under paragraph (1).

(f) *RECOMMENDATION.*—Not later than October 1, 2010, the Secretary, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of this Act, shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the grant program established under this section should be continued after fiscal year 2011.

**SEC. 204. DEMONSTRATION OF COVERAGE UNDER THE MEDICAID PROGRAM OF WORKERS WITH POTENTIALLY SEVERE DISABILITIES.**

(a) *STATE APPLICATION.*—A State may apply to the Secretary of Health and Human Services (in this section referred to as the “Secretary”) for approval of a demonstration project (in this section referred to as a “demonstration project”) under which up to a specified maximum number of individuals who are workers with a potentially severe disability (as defined in subsection (b)(1)) are provided medical assistance equal to—

(1) that provided under section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)); or

(2) in the case of a State that has not elected to provide medical assistance under that section to such individuals, such medical assistance as the Secretary determines is an appropriate equivalent to the medical assistance described in paragraph (1).

(b) *WORKER WITH A POTENTIALLY SEVERE DISABILITY DEFINED.*—For purposes of this section—

(1) *IN GENERAL.*—The term “worker with a potentially severe disability” means, with respect to a demonstration project, an individual who—

(A) is at least 16, but less than 65, years of age;

(B) has a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected, but for the receipt of items and services described in section 1905(a) of the Social Security Act

(42 U.S.C. 1396d(a)), to become blind or disabled (as defined under section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

(C) is employed (as defined in paragraph (2)).

(2) **DEFINITION OF EMPLOYED.**—An individual is considered to be “employed” if the individual—

(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined under the demonstration project and approved by the Secretary.

(c) **APPROVAL OF DEMONSTRATION PROJECTS.**—

(1) **IN GENERAL.**—Subject to paragraph (3), the Secretary shall approve applications under subsection (a) that meet the requirements of paragraph (2) and such additional terms and conditions as the Secretary may require. The Secretary may waive the requirement of section 1902(a)(1) of the Social Security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-State demonstrations.

(2) **TERMS AND CONDITIONS OF DEMONSTRATION PROJECTS.**—The Secretary may not approve a demonstration project under this section unless the State provides assurances satisfactory to the Secretary that the following conditions are or will be met:

(A) **MAINTENANCE OF STATE EFFORT.**—Federal funds paid to a State pursuant to this section must be used to supplement, but not supplant, the level of State funds expended for workers with potentially severe disabilities under programs in effect for such individuals at the time the demonstration project is approved under this section.

(B) **INDEPENDENT EVALUATION.**—The State provides for an independent evaluation of the project.

(3) **LIMITATIONS ON FEDERAL FUNDING.**—

(A) **APPROPRIATION.**—

(i) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section—

(I) \$42,000,000 for each of fiscal years 2001 through 2004, and

(II) \$41,000,000 for each of fiscal years 2005 and 2006.

(ii) **BUDGET AUTHORITY.**—Clause (i) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under clause (i).

(B) **LIMITATION ON PAYMENTS.**—In no case may—

(i) the aggregate amount of payments made by the Secretary to States under this section exceed \$250,000,000;

(ii) the aggregate amount of payments made by the Secretary to States for administrative expenses relating to annual reports required under subsection (d) exceed \$2,000,000 of such \$250,000,000; or

(iii) payments be provided by the Secretary for a fiscal year after fiscal year 2009.

(C) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States based on their applications and the availability of funds. Funds allocated to a State under a grant made under this section for a fiscal year shall remain available until expended.

(D) FUNDS NOT ALLOCATED TO STATES.—Funds not allocated to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allocation by the Secretary using the allocation formula established under this section.

(E) PAYMENTS TO STATES.—The Secretary shall pay to each State with a demonstration project approved under this section, from its allocation under subparagraph (C), an amount for each quarter equal to the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1395d(b)) of expenditures in the quarter for medical assistance provided to workers with a potentially severe disability.

(d) ANNUAL REPORT.—A State with a demonstration project approved under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include enrollment and financial statistics on—

(1) the total population of workers with potentially severe disabilities served by the demonstration project; and

(2) each population of such workers with a specific physical or mental impairment described in subsection (b)(1)(B) served by such project.

(e) RECOMMENDATION.—Not later than October 1, 2004, the Secretary shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the demonstration project established under this section should be continued after fiscal year 2006.

(f) STATE DEFINED.—In this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**SEC. 205. ELECTION BY DISABLED BENEFICIARIES TO SUSPEND MEDIGAP INSURANCE WHEN COVERED UNDER A GROUP HEALTH PLAN.**

(a) IN GENERAL.—Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by inserting “or paragraph (6)” after “this paragraph”; and

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

“(6) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) and is covered under a group

health plan (as defined in section 1862(b)(1)(A)(v)). If such suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, such policy shall be automatically reinstated (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to requests made after the date of the enactment of this Act.

### TITLE III—DEMONSTRATION PROJECTS AND STUDIES

#### SEC. 301. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

##### "DEMONSTRATION PROJECT AUTHORITY

"SEC. 234. (a) AUTHORITY.—

"(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the 'Commissioner') shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of—

"(A) various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)), including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of such individuals;

"(B) altering other limitations and conditions applicable to such individuals (including lengthening the trial work period (as defined in section 222(c)), altering the 24-month waiting period for hospital insurance benefits under section 226, altering the manner in which the program under this title is administered, earlier referral of such individuals for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation); and

"(C) implementing sliding scale benefit offsets using variations in—

"(i) the amount of the offset as a proportion of earned income;

"(ii) the duration of the offset period; and

"(iii) the method of determining the amount of income earned by such individuals,

to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this title.

"(2) AUTHORITY FOR EXPANSION OF SCOPE.—The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this title with impair-

ments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

“(b) REQUIREMENTS.—The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program under this title without committing such program to the adoption of any particular system either locally or nationally.

“(c) AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.—In the case of any experiment or demonstration project conducted under subsection (a), the Commissioner may waive compliance with the benefit requirements of this title and the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

“(d) REPORTS.—

“(1) INTERIM REPORTS.—On or before June 9 of each year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials that the Commissioner may consider appropriate.

“(2) TERMINATION AND FINAL REPORT.—The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c)) shall terminate 5 years after the date of the enactment of this Act. Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.”

(b) CONFORMING AMENDMENTS; TRANSFER OF PRIOR AUTHORITY.—

**(1) CONFORMING AMENDMENTS.—**

**(A) REPEAL OF PRIOR AUTHORITY.—**Paragraphs (1) through (4) of subsection (a) and subsection (c) of section 505 of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) are repealed.

**(B) CONFORMING AMENDMENT REGARDING FUNDING.—**Section 201(k) of the Social Security Act (42 U.S.C. 401(k)) is amended by striking "section 505(a) of the Social Security Disability Amendments of 1980" and inserting "section 234".

**(2) TRANSFER OF PRIOR AUTHORITY.—**With respect to any experiment or demonstration project being conducted under section 505(a) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) as of the date of the enactment of this Act, the authority to conduct such experiment or demonstration project (including the terms and conditions applicable to the experiment or demonstration project) shall be treated as if that authority (and such terms and conditions) had been established under section 234 of the Social Security Act, as added by subsection (a).

**SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

**(a) AUTHORITY.—**The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1148(k)(3) of the Social Security Act) under which benefits payable under section 223 of such Act, or under section 202 of such Act based on the beneficiary's disability, are reduced by \$1 for each \$2 of the beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

**(b) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—**

**(1) IN GENERAL.—**The demonstration projects developed under subsection (a) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

**(A)** the effects, if any, of induced entry into the project and reduced exit from the project;

**(B)** the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act; and

**(C)** the savings that accrue to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and other Federal programs under the project being tested.



*The Commissioner shall take into account advice provided by the Ticket to Work and Work Incentives Advisory Panel pursuant to section 101(f)(2)(B)(ii) of this Act.*

(2) *ADDITIONAL MATTERS.—The Commissioner shall also determine with respect to each project—*

(A) *the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project;*

(B) *the determinants of return to work, including the characteristics of the beneficiaries who participate in the project; and*

(C) *the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.*

*The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.*

(c) *WAIVERS.—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act (42 U.S.C. 401 et seq.), and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act (42 U.S.C. 1395 et seq.), insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).*

(d) *INTERIM REPORTS.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Commissioner of Social Security shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials that the Commissioner of Social Security may consider appropriate.*

(e) *FINAL REPORT.—The Commissioner of Social Security shall submit to the Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.*

(f) *EXPENDITURES.—Expenditures made for demonstration projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.*

**SEC. 303. STUDIES AND REPORTS.****(a) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.—**

(1) *STUDY.*—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other Federal laws. In such study, the Comptroller General shall specifically address the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities.

(2) *REPORT.*—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

**(b) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING COORDINATION OF THE DI AND SSI PROGRAMS AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAVING CONCURRENT ENTITLEMENT.—**

(1) *STUDY.*—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act (42 U.S.C. 401 et seq.) and the supplemental security income program under title XVI of such Act (42 U.S.C. 1381 et seq.), as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) *REPORT.*—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

**(c) STUDY BY GENERAL ACCOUNTING OFFICE OF THE IMPACT OF THE SUBSTANTIAL GAINFUL ACTIVITY LIMIT ON RETURN TO WORK.—**

(1) *STUDY.*—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study of the substantial gainful activity level applicable as of that date to recipients of benefits under section 223 of the Social Security Act (42 U.S.C. 423) and under section 202 of such Act (42 U.S.C. 402) on the basis of a recipient having a disability, and the effect of such level as a disincentive for those recipients to return to work. In the

study, the Comptroller General also shall address the merits of increasing the substantial gainful activity level applicable to such recipients of benefits and the rationale for not yearly indexing that level to inflation.

(2) *REPORT*.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

(d) *REPORT ON DISREGARDS UNDER THE DI AND SSI PROGRAMS*.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that—

(1) identifies all income, assets, and resource disregards (imposed under statutory or regulatory authority) that are applicable to individuals receiving benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.);

(2) with respect to each such disregard—

(A) specifies the most recent statutory or regulatory modification of the disregard; and

(B) recommends whether further statutory or regulatory modification of the disregard would be appropriate; and

(3) with respect to the disregard described in section 1612(b)(7) of such Act (42 U.S.C. 1382a(b)(7)) (relating to grants, scholarships, or fellowships received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution)—

(A) identifies the number of individuals receiving benefits under title XVI of such Act (42 U.S.C. 1381 et seq.) who have attained age 22 and have not had any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution excluded from their income in accordance with that section;

(B) recommends whether the age at which such grants, scholarships, or fellowships are excluded from income for purposes of determining eligibility under title XVI of such Act (42 U.S.C. 1381 et seq.) should be increased to age 25; and

(C) recommends whether such disregard should be expanded to include any such grant, scholarship, or fellowship received for use in paying the cost of room and board at any such institution.

(e) *STUDY BY THE GENERAL ACCOUNTING OFFICE OF SOCIAL SECURITY ADMINISTRATION'S DISABILITY INSURANCE PROGRAM DEMONSTRATION AUTHORITY*.—

(1) *STUDY*.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess the results of the Social

Security Administration's efforts to conduct disability demonstrations authorized under prior law as well as under section 234 of the Social Security Act (as added by section 301 of this Act).

(2) *REPORT*.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this section, together with a recommendation as to whether the demonstration authority authorized under section 234 of the Social Security Act (as added by section 301 of this Act) should be made permanent.

#### **TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

##### **SEC. 401. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.**

(a) *CLARIFICATION RELATING TO THE EFFECTIVE DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS*.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended—

(1) in subparagraph (A), by striking “by the Commissioner of Social Security” and “by the Commissioner”; and

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

“(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

“(i) there is pending a request for either administrative or judicial review with respect to such claim; or

“(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) shall not apply to such redetermination.”.

(b) *CORRECTION TO EFFECTIVE DATE OF PROVISIONS CONCERNING REPRESENTATIVE PAYEES AND TREATMENT REFERRALS OF SOCIAL SECURITY BENEFICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS*.—Section 105(a)(5)(B) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended to read as follows:

*“(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—*

*“(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act; or*

*“(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).”*

*(c) EFFECTIVE DATES.—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 852 et seq.).*

**SEC. 402. TREATMENT OF PRISONERS.**

*(a) IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF TITLE II BENEFITS TO PRISONERS.—*

*(1) IN GENERAL.—Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended—*

*(A) by inserting “(A)” after “(3)”; and*

*(B) by adding at the end the following new subparagraph:*

*“(B)(i) The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—*

*“(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, Social Security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1) and other provisions of this title; and*

*“(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual’s confinement in such institution begins, or \$200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.*

*“(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).*

*“(iii) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Dis-*

ability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II).

"(iv) The Commissioner shall maintain, and shall provide on a reimbursable basis, information obtained pursuant to agreements entered into under this paragraph to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility and other administrative purposes under such program."

(2) CONFORMING AMENDMENTS TO THE PRIVACY ACT.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) in clause (vi), by striking "or" at the end;

(B) in clause (vii), by adding "or" at the end; and

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

"(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));".

(3) CONFORMING AMENDMENTS TO TITLE XVI.—

(A) Section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking "; and" and inserting "and the other provisions of this title; and".

(B) Section 1611(e)(1)(I)(ii)(II) of such Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by striking "is authorized to provide, on a reimbursable basis," and inserting "shall maintain, and shall provide on a reimbursable basis,".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(b) ELIMINATION OF TITLE II REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking "during which" and inserting "ending with or during or beginning with or during a period of more than 30 days throughout all of which";

(B) in clause (i), by striking "an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)" and inserting "a criminal offense"; and

(C) in clause (ii)(I), by striking "an offense punishable by imprisonment for more than 1 year" and inserting "a criminal offense".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(c) CONFORMING TITLE XVI AMENDMENTS.—

(1) 50 PERCENT REDUCTION IN TITLE XVI PAYMENT IN CASE INVOLVING COMPARABLE TITLE II PAYMENT.—Section

1611(e)(1)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is amended—

(A) in clause (i)(II), by inserting “(subject to reduction under clause (ii))” after “\$400” and after “\$200”;

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(C) by inserting after clause (i) the following new clause:

“(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B).”

(2) **EXPANSION OF CATEGORIES OF INSTITUTIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER.**—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in the matter preceding subclause (I) by striking “institution” and all that follows through “section 202(x)(1)(A),” and inserting “institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii).”

(3) **ELIMINATION OF OVERLY BROAD EXEMPTION.**—Section 1611(e)(1)(I)(iii) of such Act (42 U.S.C. 1382(e)(1)(I)(iii)) (as redesignated by paragraph (1)(B)) is amended further—

(A) by striking “(I) The provisions” and all that follows through “(II)”; and

(B) by striking “eligibility purposes” and inserting “eligibility and other administrative purposes under such program.”

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act in section 1611(e)(1)(I)(i) of the Social Security Act, as amended by paragraph (2) of this subsection, shall be deemed a reference to such section 202(x)(1)(A)(ii) of such Act as amended by subsection (b)(1)(C) of this section.

(d) **CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON TERM.**—

(1) **IN GENERAL.**—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii)(IV), by striking the period and inserting “, or”; and

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

“(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.”

(2) **CONFORMING AMENDMENT.**—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking “clause (i)” and inserting “clauses (ii) and (iii)”.

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

**SEC. 403. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.**

(a) **IN GENERAL.**—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed by the Commissioner of Internal Revenue), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s second taxable year beginning after December 31, 1999. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.)), as specified in the application, either with respect to the applicant’s first taxable year beginning after December 31, 1999, or with respect to the applicant’s second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant’s Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraphs (4) and (5) of section 1402(c)) except for the exemption under section 1402(e)(1) of such Code.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and with respect to monthly insurance benefits payable under title II on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

**SEC. 404. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND XVI.**

(a) **IN GENERAL.**—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking “title XVI” and inserting “title II or XVI”.



(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

**SEC. 405. AUTHORIZATION FOR STATE TO PERMIT ANNUAL WAGE REPORTS.**

(a) **IN GENERAL.**—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended by inserting before the semicolon the following: “, and except that in the case of wage reports with respect to domestic service employment, a State may permit employers (as so defined) that make returns with respect to such employment on a calendar year basis pursuant to section 3510 of the Internal Revenue Code of 1986 to make such reports on an annual basis”.

(b) **TECHNICAL AMENDMENTS.**—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by striking “(as defined in section 453A(a)(2)(B)(iii))”;

and

(2) by inserting “(as defined in section 453A(a)(2)(B))” after “employers”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to wage reports required to be submitted on and after the date of the enactment of this Act.

**SEC. 406. ASSESSMENT ON ATTORNEYS WHO RECEIVE THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.**

(a) **ASSESSMENT ON ATTORNEYS.**—

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

“(d) **ASSESSMENT ON ATTORNEYS.**—

“(1) **IN GENERAL.**—Whenever a fee for services is required to be certified for payment to an attorney from a claimant’s past-due benefits pursuant to subsection (a)(4) or (b)(1), the Commissioner shall impose on the attorney an assessment calculated in accordance with paragraph (2).

“(2) **AMOUNT.**—

“(A) The amount of an assessment under paragraph (1) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be so certified by subsection (a)(4) or (b)(1) before the application of this subsection, by the percentage specified in subparagraph (B).

“(B) The percentage specified in this subparagraph is—

“(i) for calendar years before 2001, 6.3 percent, and

“(ii) for calendar years after 2000, such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and certifying fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(3) **COLLECTION.**—The Commissioner may collect the assessment imposed on an attorney under paragraph (1) by offset from the amount of the fee otherwise required by subsection

(a)(4) or (b)(1) to be certified for payment to the attorney from a claimant's past-due benefits.

"(4) PROHIBITION ON CLAIMANT REIMBURSEMENT.—An attorney subject to an assessment under paragraph (1) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

"(5) DISPOSITION OF ASSESSMENTS.—Assessments on attorneys collected under this subsection shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate.

"(6) AUTHORIZATION OF APPROPRIATIONS.—The assessments authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws."

(2) CONFORMING AMENDMENTS.—

(A) Section 206(a)(4)(A) of such Act (42 U.S.C. 406(a)(4)(A)) is amended by inserting "and subsection (d)" after "subparagraph (B)".

(B) Section 206(b)(1)(A) of such Act (42 U.S.C. 406(b)(1)(A)) is amended by inserting ", but subject to subsection (d) of this section" after "section 205(i)".

(b) ELIMINATION OF 15-DAY WAITING PERIOD FOR PAYMENT OF FEES.—Section 206(a)(4) of such Act (42 U.S.C. 406(a)(4)), as amended by subsection (a)(2)(A) of this section, is amended—

(1) by striking "(4)(A)" and inserting "(4)";

(2) by striking "subparagraph (B) and"; and

(3) by striking subparagraph (B).

(c) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that—

(A) examines the costs incurred by the Social Security Administration in administering the provisions of subsection (a)(4) and (b)(1) of section 206 of the Social Security Act (42 U.S.C. 406) and itemizes the components of such costs, including the costs of determining fees to attorneys from the past-due benefits of claimants before the Commissioner of Social Security and of certifying such fees;

(B) identifies efficiencies that the Social Security Administration could implement to reduce such costs;

(C) examines the feasibility and advisability of linking the payment of, or the amount of, the assessment under section 206(d) of the Social Security Act (42 U.S.C. 406(d)) to the timeliness of the payment of the fee to the attorney as certified by the Commissioner of Social Security pursuant to subsection (a)(4) or (b)(1) of section 206 of such Act (42 U.S.C. 406);

(D) determines whether the provisions of subsection (a)(4) and (b)(1) of section 206 of such Act (42 U.S.C. 406) should be applied to claimants under title XVI of such Act (42 U.S.C. 1381 et seq.);

(E) determines the feasibility and advisability of stating fees under section 206(d) of such Act (42 U.S.C. 406(d)) in terms of a fixed dollar amount as opposed to a percentage;

(F) determines whether the dollar limit specified in section 206(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 406(a)(2)(A)(ii)(II)) should be raised; and

(G) determines whether the assessment on attorneys required under section 206(d) of such Act (42 U.S.C. 406(d)) (as added by subsection (a)(1) of this section) impairs access to legal representation for claimants.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States 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 study conducted under paragraph (1), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply in the case of any attorney with respect to whom a fee for services is required to be certified for payment from a claimant's past-due benefits pursuant to subsection (a)(4) or (b)(1) of section 206 of the Social Security Act after the later of—

(1) December 31, 1999, or

(2) the last day of the first month beginning after the month in which this Act is enacted.

**SEC. 407. EXTENSION OF AUTHORITY OF STATE MEDICAID FRAUD CONTROL UNITS.**

(a) **EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL HEALTH CARE PROGRAMS.**—Section 1903(q)(3) of the Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting “(A)” after “in connection with”; and

(2) by striking “title.” and inserting “title; and (B) upon the approval of the Inspector General of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)), if the suspected fraud or violation of law in such case or investigation is primarily related to the State plan under this title.”.

(b) **RECOUPMENT OF FUNDS.**—Section 1903(q)(5) of such Act (42 U.S.C. 1396b(q)(5)) is amended—

(1) by inserting “or under any Federal health care program (as so defined)” after “plan”; and

(2) by adding at the end the following: “All funds collected in accordance with this paragraph shall be credited exclusively to, and available for expenditure under, the Federal health care program (including the State plan under this title) that was subject to the activity that was the basis for the collection.”.

(c) **EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE RESIDENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.**—Section 1903(q)(4) of such Act (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

“(4)(A) The entity has—

“(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

“(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

“(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

“(B) For purposes of this paragraph, the term ‘board and care facility’ means a residential setting which receives payment (regardless of whether such payment is made under the State plan under this title) from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

“(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

“(ii) A substantial amount of personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.”

(d) **EFFECTIVE DATE.**—The amendments made by this section take effect on the date of the enactment of this Act.

**SEC. 408. CLIMATE DATABASE MODERNIZATION.**

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NIH Image World Contract #263-96-D-0323 and Task Order #56-DKNE-9-98303 which were awarded as a result of fair and open competition conducted in response to NOAA’s solicitation IW SOW 1082.

**SEC. 409. SPECIAL ALLOWANCE ADJUSTMENT FOR STUDENT LOANS.**

(a) **AMENDMENT.**—Section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) is amended—

(1) in subparagraph (A), by striking “(G), and (H)” and inserting “(G), (H), and (I)”;

(2) in subparagraph (B)(iv), by striking “(G), or (H)” and inserting “(G), (H), or (I)”;

(3) in subparagraph (C)(ii), by striking “(G) and (H)” and inserting “(G), (H), and (I)”;

(4) in the heading of subparagraph (H), by striking “JULY 1, 2003” and inserting “JANUARY 1, 2000”;

(5) in subparagraph (H), by striking “July 1, 2003,” each place it appears and inserting “January 1, 2000,”; and

(6) by inserting after subparagraph (H) the following new subparagraph:

“(I) **LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2003.**—

“(i) *IN GENERAL.*—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, shall be computed—

“(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period;

“(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

“(III) by adding 2.34 percent to the resultant percent; and

“(IV) by dividing the resultant percent by 4.

“(ii) *IN SCHOOL AND GRACE PERIOD.*—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting ‘1.74 percent’ for ‘2.34 percent’.

“(iii) *PLUS LOANS.*—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.64 percent’ for ‘2.34 percent’, subject to clause (v) of this subparagraph.

“(iv) *CONSOLIDATION LOANS.*—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and before July 1, 2003, and for which the applicable interest rate is determined under section 427A(k)(4), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.64 percent’ for ‘2.34 percent’, subject to clause (vi) of this subparagraph.

“(v) *LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.*—In the case of PLUS loans made under section 428B and first disbursed on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(3), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

“(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

“(II) 3.1 percent,

exceeds 9.0 percent.

“(vi) **LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.**—In the case of consolidation loans made under section 428C and for which the application is received on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(4), a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

“(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period; plus

“(II) 2.64 percent,

exceeds the rate determined under section 427A(k)(4).”.

(b) **EFFECTIVE DATE.**—Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

**SEC. 410. SCHEDULE FOR PAYMENTS UNDER SSI STATE SUPPLEMENTATION AGREEMENTS.**

(a) **SCHEDULE FOR SSI SUPPLEMENTATION PAYMENTS.**—

(1) **IN GENERAL.**—Section 1616(d) of the Social Security Act (42 U.S.C. 1382e(d)) is amended—

(A) in paragraph (1), by striking “at such times and in such installments as may be agreed upon between the Commissioner of Social Security and such State” and inserting “in accordance with paragraph (5)”; and

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

“(5)(A)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this subsection with respect to monthly benefits paid to individuals under this title no later than—

“(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

“(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

“(ii) The Commissioner may charge States a penalty in an amount equal to 5 percent of the payment and the fees due if the remittance is received after the date required by clause (i).

“(B) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this subsection that are paid by a State before the date required by subparagraph (A)(i).

“(C) Notwithstanding subparagraph (A)(i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of benefits under this title, and subsequently to be reimbursed for such payments by the State at such

times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payment when required by subparagraph (A)(i) are determined by the Commissioner to exist."

(2) AMENDMENT TO SECTION 212.—Section 212 of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) in subsection (b)(3)(A), by striking "at such times and in such installments as may be agreed upon between the Secretary and the State" and inserting "in accordance with subparagraph (E)";

(B) by adding at the end of subsection (b)(3) the following new subparagraph:

"(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act no later than—

"(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

"(II) with respect to such monthly benefits paid for the month that is the last month of the State's fiscal year, the fifth business day following such date.

"(ii) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

"(iii) Notwithstanding clause (i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of supplemental security income benefits under title XVI of the Social Security Act, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payment when required by clause (i) are determined by the Commissioner to exist."; and

(C) by striking "Secretary of Health, Education, and Welfare" and "Secretary" each place such term appear and inserting "Commissioner of Social Security".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments and fees arising under an agreement between a State and the Commissioner of Social Security under section 1616 of the Social Security Act (42 U.S.C. 1382e) or under section 212 of Public Law 93-66 (42 U.S.C. 1382 note) with respect to monthly benefits paid to individuals under title XVI of the Social Security Act for months after September 2009 (October 2009 in the case of a State with a fiscal year that coincides with the Federal fiscal year), without regard to whether the agreement has been modified to reflect such amendments or the Commissioner has promulgated regulations implementing such amendments.

#### SEC. 411. BONUS COMMODITIES.

Section 6(e)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

(1) by striking "in the form of commodity assistance" and inserting "in the form of—

"(A) commodity assistance";

(2) by striking the period at the end and inserting “; or”;  
and

(3) by adding at the end the following:

“(B) during the period beginning October 1, 2000, and ending September 30, 2009, commodities provided by the Secretary under any provision of law.”

**SEC. 412. SIMPLIFICATION OF DEFINITION OF FOSTER CHILD UNDER EIC.**

(a) *IN GENERAL.*—Section 32(c)(3)(B)(iii) of the Internal Revenue Code of 1986 (defining eligible foster child) is amended by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively, and by inserting before subclause (II), as so redesignated, the following:

“(I) is a brother, sister, stepbrother, or step-sister of the taxpayer (or a descendant of any such relative) or is placed with the taxpayer by an authorized placement agency.”

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. 413. DELAY OF EFFECTIVE DATE OF ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK FINAL RULE.**

(a) *IN GENERAL.*—The final rule entitled “Organ Procurement and Transplantation Network”, promulgated by the Secretary of Health and Human Services on April 2, 1998 (63 Fed. Reg. 16295 et seq.) (relating to part 121 of title 42, Code of Federal Regulations), together with the amendments to such rules promulgated on October 20, 1999 (64 Fed. Reg. 56649 et seq.) shall not become effective before the expiration of the 90-day period beginning on the date of the enactment of this Act.

(b) *NOTICE AND REVIEW.*—For purposes of subsection (a):

(1) Not later than 3 days after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish in the Federal Register a notice providing that the period within which comments on the final rule may be submitted to the Secretary is 60 days after the date of such publication of the notice.

(2) Not later than 21 days after the expiration of such 60-day period, the Secretary shall complete the review of the comments submitted pursuant to paragraph (1) and shall amend the final rule with any revisions appropriate according to the review by the Secretary of such comments. The final rule may be in the form of amendments to the rule referred to in subsection (a) that was promulgated on April 2, 1998, and in the form of amendments to the rule referred to in such subsection that was promulgated on October 20, 1999.

**TITLE V—TAX RELIEF EXTENSION ACT OF 1999**

**SEC. 500. SHORT TITLE OF TITLE.**

This title may be cited as the “Tax Relief Extension Act of 1999”.



**Subtitle A—Extensions**

**SEC. 501. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

(a) *IN GENERAL.*—Subsection (a) of section 26 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended to read as follows:

“(a) *LIMITATION BASED ON AMOUNT OF TAX.*—

“(1) *IN GENERAL.*—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

“(A) the taxpayer’s regular tax liability for the taxable year, over

“(B) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit).

For purposes of subparagraph (B), the taxpayer’s tentative minimum tax for any taxable year beginning during 1999 shall be treated as being zero.”

“(2) *SPECIAL RULE FOR 2000 AND 2001.*—For purposes of any taxable year beginning during 2000 or 2001, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

“(A) the taxpayer’s regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

“(B) the tax imposed by section 55(a) for the taxable year.”

(b) *CONFORMING AMENDMENTS.*—

(1) Section 24(d)(2) of such Code is amended by striking “1998” and inserting “2001”.

(2) Section 904(h) of such Code is amended by adding at the end the following: “This subsection shall not apply to taxable years beginning during 2000 or 2001.”

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

**SEC. 502. RESEARCH CREDIT.**

(a) *EXTENSION.*—

(1) *IN GENERAL.*—Paragraph (1) of section 41(h) of the Internal Revenue Code of 1986 (relating to termination) is amended—

(A) by striking “June 30, 1999” and inserting “June 30, 2004”, and

(B) by striking the material following subparagraph (B).

(2) *TECHNICAL AMENDMENT.*—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking “June 30, 1999” and inserting “June 30, 2004”.

(3) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(b) *INCREASE IN PERCENTAGES UNDER ALTERNATIVE INCREMENTAL CREDIT.*—

(1) *IN GENERAL.*—Subparagraph (A) of section 41(c)(4) of such Code is amended—

(A) by striking “1.65 percent” and inserting “2.65 percent”,

(B) by striking “2.2 percent” and inserting “3.2 percent”, and

(C) by striking “2.75 percent” and inserting “3.75 percent”.

(2) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply to taxable years beginning after June 30, 1999.

(c) *EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.*—

(1) *IN GENERAL.*—Subsections (c)(6) and (d)(4)(F) of section 41 of such Code (relating to foreign research) are each amended by inserting “, the Commonwealth of Puerto Rico, or any possession of the United States” after “United States”.

(2) *DENIAL OF DOUBLE BENEFIT.*—Section 280C(c)(1) of such Code is amended by inserting “or credit” after “deduction” each place it appears.

(3) *EFFECTIVE DATE.*—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(d) *SPECIAL RULE.*—

(1) *IN GENERAL.*—For purposes of the Internal Revenue Code of 1986, the credit determined under section 41 of such Code which is otherwise allowable under such Code—

(A) shall not be taken into account prior to October 1, 2000, to the extent such credit is attributable to the first suspension period, and

(B) shall not be taken into account prior to October 1, 2001, to the extent such credit is attributable to the second suspension period.

On or after the earliest date that an amount of credit may be taken into account, such amount may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code.

(2) *SUSPENSION PERIODS.*—For purposes of this subsection—

(A) the first suspension period is the period beginning on July 1, 1999, and ending on September 30, 2000, and

(B) the second suspension period is the period beginning on October 1, 2000, and ending on September 30, 2001.

(3) *EXPEDITED REFUNDS.*—

(A) *IN GENERAL.*—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) *DEADLINE FOR APPLICATIONS.*—Subparagraph (A) shall apply only to an application filed before the date

which is 1 year after the close of the suspension period to which the application relates.

(C) ALLOWANCE OF ADJUSTMENTS.—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

- (i) review the application,
- (ii) determine the amount of the overpayment, and
- (iii) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in section 6411(b) of such Code.

(D) CONSOLIDATED RETURNS.—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under section 41 of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such section 41 for such taxable year as the number of months in the suspension period which are during such taxable year bears to the number of months in such taxable year.

(B) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of such Code for any period before July 1, 1999, with respect to any underpayment of tax imposed by such Code to the extent such underpayment was created or increased by reason of subparagraph (A).

(5) SECRETARY.—For purposes of this subsection, the term “Secretary” means the Secretary of the Treasury (or such Secretary’s delegate).

#### SEC. 503. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) of the Internal Revenue Code of 1986 (relating to application) are each amended—

(1) by striking “the first taxable year” and inserting “taxable years”,

(2) by striking “January 1, 2000” and inserting “January 1, 2002”, and

(3) by striking “within which such” and inserting “within which any such”.

(b) TECHNICAL AMENDMENT.—Paragraph (10) of section 953(e) of such Code is amended by adding at the end the following new sentence: “If this subsection does not apply to a taxable year of a foreign corporation beginning after December 31, 2001 (and taxable years of United States shareholders ending with or within such taxable year), then, notwithstanding the preceding sentence, subsection (a) shall be applied to such taxable years in the same manner as it would if the taxable year of the foreign corporation began in 1998.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. 504. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION.**

(a) *IN GENERAL.*—Subparagraph (H) of section 613A(c)(6) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable limit with respect to marginal production) is amended by striking “January 1, 2000” and inserting “January 1, 2002”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

**SEC. 505. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) *TEMPORARY EXTENSION.*—Sections 51(c)(4)(B) and 51A(f) of the Internal Revenue Code of 1986 (relating to termination) are each amended by striking “June 30, 1999” and inserting “December 31, 2001”.

(b) *CLARIFICATION OF FIRST YEAR OF EMPLOYMENT.*—Paragraph (2) of section 51(i) of such Code is amended by striking “during which he was not a member of a targeted group”.

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1999.

**SEC. 506. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.**

(a) *IN GENERAL.*—Subsection (d) of section 127 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “May 31, 2000” and inserting “December 31, 2001”.

(b) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall apply to courses beginning after May 31, 2000.

**SEC. 507. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.**

(a) *EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.*—Paragraph (3) of section 45(c) of the Internal Revenue Code of 1986 is amended to read as follows:

“(3) *QUALIFIED FACILITY.*—

“(A) *WIND FACILITY.*—In the case of a facility using wind to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2002.

“(B) *CLOSED-LOOP BIOMASS FACILITY.*—In the case of a facility using closed-loop biomass to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002.

“(C) *POULTRY WASTE FACILITY.*—In the case of a facility using poultry waste to produce electricity, the term ‘qualified facility’ means any facility of the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2002.”

(b) *EXPANSION OF QUALIFIED ENERGY RESOURCES.*—

(1) *IN GENERAL.*—Section 45(c)(1) of such Code (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) poultry waste.”

(2) **DEFINITION.**—Section 45(c) of such Code is amended by adding at the end the following new paragraph:

“(4) **POULTRY WASTE.**—The term ‘poultry waste’ means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.”

(c) **SPECIAL RULES.**—Section 45(d) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraphs:

“(6) **CREDIT ELIGIBILITY IN THE CASE OF GOVERNMENT-OWNED FACILITIES USING POULTRY WASTE.**—In the case of a facility using poultry waste to produce electricity and owned by a governmental unit, the person eligible for the credit under subsection (a) is the lessee or the operator of such facility.

“(7) **CREDIT NOT TO APPLY TO ELECTRICITY SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.**—

“(A) **IN GENERAL.**—The credit determined under subsection (a) shall not apply to electricity—

“(i) produced at a qualified facility described in paragraph (3)(A) which is placed in service by the taxpayer after June 30, 1999, and

“(ii) sold to a utility pursuant to a contract originally entered into before January 1, 1987 (whether or not amended or restated after that date).

“(B) **EXCEPTION.**—Subparagraph (A) shall not apply if—

“(i) the prices for energy and capacity from such facility are established pursuant to an amendment to the contract referred to in subparagraph (A)(ii),

“(ii) such amendment provides that the prices set forth in the contract which exceed avoided cost prices determined at the time of delivery shall apply only to annual quantities of electricity (prorated for partial years) which do not exceed the greater of—

“(I) the average annual quantity of electricity sold to the utility under the contract during calendar years 1994, 1995, 1996, 1997, and 1998, or

“(II) the estimate of the annual electricity production set forth in the contract, or, if there is no such estimate, the greatest annual quantity of electricity sold to the utility under the contract in any of the calendar years 1996, 1997, or 1998, and

“(iii) such amendment provides that energy and capacity in excess of the limitation in clause (ii) may be—

“(I) sold to the utility only at prices that do not exceed avoided cost prices determined at the time of delivery, or

“(II) sold to a third party subject to a mutually agreed upon advance notice to the utility.

For purposes of this subparagraph, avoided cost prices shall be determined as provided for in 18 CFR 292.304(d)(1) or any successor regulation.”

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 508. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF PREFERENCES.**

(a) **IN GENERAL.**—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “June 30, 1999” and inserting “September 30, 2001”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by this section applies to articles entered on or after the date of the enactment of this Act.

(2) **RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.**—

(A) **GENERAL RULE.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), any entry—

(i) of an article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if such entry had been made on July 1, 1999, and such title had been in effect on July 1, 1999, and

(ii) that was made—

(I) after June 30, 1999, and

(II) before the date of enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) **ENTRY.**—As used in this paragraph, the term “entry” includes a withdrawal from warehouse for consumption.

(3) **REQUESTS.**—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry, or

(B) to reconstruct the entry if it cannot be located.

**SEC. 509. EXTENSION OF CREDIT FOR HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.**

(a) **IN GENERAL.**—Section 1397E(e)(1) of the Internal Revenue Code of 1986 (relating to national limitation) is amended by striking “and 1999” and inserting “, 1999, 2000, and 2001”.

(b) **LIMITATION ON CARRYOVER PERIODS.**—Paragraph (4) of section 1397E(e) of such Code is amended by adding at the end the following flush sentences:

“Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.”

**SEC. 510. EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.**

Section 1400C(i) of the Internal Revenue Code of 1986 is amended by striking “2001” and inserting “2002”.

**SEC. 511. EXTENSION OF EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

Section 198(h) of the Internal Revenue Code of 1986 is amended by striking "2000" and inserting "2001".

**SEC. 512. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.**

(a) *IN GENERAL.*—Section 7652(f)(1) of the Internal Revenue Code of 1986 (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

"(1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2002), or"

(b) *SPECIAL COVER OVER TRANSFER RULES.*—Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before October 1, 2000, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a):

(1) *INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.*—The Secretary of the Treasury shall, within 15 days after the date of the enactment of this Act, transfer an amount equal to the lesser of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the date of the enactment of this Act, or

(B) \$20,000,000.

(2) *TRANSFER OF INCREMENTAL INCREASE FOR FISCAL YEAR 2001.*—The Secretary of the Treasury shall on October 1, 2000, transfer an amount equal to the excess of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before October 1, 2000, over

(B) the amount of the transfer described in paragraph (1).

(c) *EFFECTIVE DATE.*—The amendment made by subsection (a) shall take effect on July 1, 1999.

**Subtitle B—Other Time-Sensitive Provisions**

**SEC. 521. ADVANCE PRICING AGREEMENTS TREATED AS CONFIDENTIAL TAXPAYER INFORMATION.**

(a) *IN GENERAL.*—

(1) *TREATMENT AS RETURN INFORMATION.*—Paragraph (2) of section 6103(b) of the Internal Revenue Code of 1986 (defining return information) is amended by striking "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement."

(2) *EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.*—Paragraph (1) of section 6110(b) of such Code (defining written determination) is amended by adding at the end the following new sentence: "Such term shall not include

any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”

(3) *EFFECTIVE DATE.*—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) *ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS.*—

(1) *IN GENERAL.*—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

(2) *CONTENTS OF REPORT.*—The report shall include the following for the calendar year to which such report relates:

(A) Information about the structure, composition, and operation of the advance pricing agreement program office.

(B) A copy of each model advance pricing agreement.

(C) The number of—

(i) applications filed during such calendar year for advance pricing agreements;

(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

(iii) renewals of advance pricing agreements issued;

(iv) pending requests for advance pricing agreements;

(v) pending renewals of advance pricing agreements;

(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

(viii) advance pricing agreements finalized or renewed by industry.

(D) General descriptions of—

(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

(ii) the covered transactions and the business functions performed and risks assumed by such organizations, trades, or businesses;

(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

(v) critical assumptions made and sources of comparables used;

(vi) comparable selection criteria and the rationale used in determining such criteria;



(vii) the nature of adjustments to comparables or tested parties;

(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparables;

(ix) adjustment mechanisms provided to rectify results that fall outside of the agreed upon advance pricing agreement range;

(x) the various term lengths for advance pricing agreements, including rollback years, and the number of advance pricing agreements with each such term length;

(xi) the nature of documentation required; and

(xii) approaches for sharing of currency or other risks.

(E) Statistics regarding the amount of time taken to complete new and renewal advance pricing agreements.

(F) A detailed description of the Secretary of the Treasury's efforts to ensure compliance with existing advance pricing agreements.

(3) **CONFIDENTIALITY.**—The reports required by this subsection shall be treated as authorized by the Internal Revenue Code of 1986 for purposes of section 6103 of such Code, but the reports shall not include information—

(A) which would not be permitted to be disclosed under section 6110(c) of such Code if such report were a written determination as defined in section 6110 of such Code, or

(B) which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(4) **FIRST REPORT.**—The report for calendar year 1999 shall include prior calendar years after 1990.

(c) **REGULATIONS.**—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 6103(b)(2)(C), and the last sentence of section 6110(b)(1), of the Internal Revenue Code of 1986, as added by this section.

**SEC. 522. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES.**

(a) **IN GENERAL.**—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary's delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor, and

(2) the amount of any credit or refund.

(b) **APPLICABILITY OF CERTAIN RULES.**—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.

**SEC. 523. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.**

**(a) INCLUSION OF VACCINES.—**

(1) *IN GENERAL.*—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

“(L) Any conjugate vaccine against streptococcus pneumoniae.”

**(2) EFFECTIVE DATE.—**

(A) *SALES.*—The amendment made by this subsection shall apply to vaccine sales after the date of the enactment of this Act, but shall not take effect if subsection (b) does not take effect.

(B) *DELIVERIES.*—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

**(b) VACCINE TAX AND TRUST FUND AMENDMENTS.—**

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

(2) Subparagraph (A) of section 9510(c)(1) of such Code is amended by striking “August 5, 1997” and inserting “December 31, 1999”.

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 to which they relate.

(c) *REPORT.*—Not later than January 31, 2000, the Comptroller General of the United States shall prepare and 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 operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

**SEC. 524. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.**

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking “July 1, 2000” and inserting “January 1, 2002”.

**SEC. 525. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.**

Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 et seq.), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

**Subtitle C—Revenue Offsets**

**PART I—GENERAL PROVISIONS**

**SEC. 531. MODIFICATION OF ESTIMATED TAX SAFE HARBOR.**

(a) *IN GENERAL.*—The table contained in clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 (relating to limitation on use of preceding year's tax) is amended by striking the items relating to 1999 and 2000 and inserting the following new items:

"1999 .....	108.6
2000 .....	110".

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

**SEC. 532. CLARIFICATION OF TAX TREATMENT OF INCOME AND LOSS ON DERIVATIVES.**

(a) *IN GENERAL.*—Section 1221 of the Internal Revenue Code of 1986 (defining capital assets) is amended—

(1) by striking "For purposes" and inserting the following:

"(a) *IN GENERAL.*—For purposes",

(2) by striking the period at the end of paragraph (5) and inserting a semicolon, and

(3) by adding at the end the following:

"(6) any commodities derivative financial instrument held by a commodities derivatives dealer, unless—

"(A) it is established to the satisfaction of the Secretary that such instrument has no connection to the activities of such dealer as a dealer, and

"(B) such instrument is clearly identified in such dealer's records as being described in subparagraph (A) before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe);

"(7) any hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe); or

"(8) supplies of a type regularly used or consumed by the taxpayer in the ordinary course of a trade or business of the taxpayer.

"(b) *DEFINITIONS AND SPECIAL RULES.*—

"(1) *COMMODITIES DERIVATIVE FINANCIAL INSTRUMENTS.*—  
For purposes of subsection (a)(6)—

"(A) *COMMODITIES DERIVATIVES DEALER.*—The term 'commodities derivatives dealer' means a person which regularly offers to enter into, assume, offset, assign, or terminate positions in commodities derivative financial instruments with customers in the ordinary course of a trade or business.

"(B) *COMMODITIES DERIVATIVE FINANCIAL INSTRUMENT.*—

“(i) *IN GENERAL.*—The term ‘commodities derivative financial instrument’ means any contract or financial instrument with respect to commodities (other than a share of stock in a corporation, a beneficial interest in a partnership or trust, a note, bond, debenture, or other evidence of indebtedness, or a section 1256 contract (as defined in section 1256(b)), the value or settlement price of which is calculated by or determined by reference to a specified index.

“(ii) *SPECIFIED INDEX.*—The term ‘specified index’ means any one or more or any combination of—

“(I) a fixed rate, price, or amount, or

“(II) a variable rate, price, or amount,

which is based on any current, objectively determinable financial or economic information with respect to commodities which is not within the control of any of the parties to the contract or instrument and is not unique to any of the parties’ circumstances.

“(2) *HEDGING TRANSACTION.*—

“(A) *IN GENERAL.*—For purposes of this section, the term ‘hedging transaction’ means any transaction entered into by the taxpayer in the normal course of the taxpayer’s trade or business primarily—

“(i) to manage risk of price changes or currency fluctuations with respect to ordinary property which is held or to be held by the taxpayer,

“(ii) to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer, or

“(iii) to manage such other risks as the Secretary may prescribe in regulations.

“(B) *TREATMENT OF NONIDENTIFICATION OR IMPROPER IDENTIFICATION OF HEDGING TRANSACTIONS.*—Notwithstanding subsection (a)(7), the Secretary shall prescribe regulations to properly characterize any income, gain, expense, or loss arising from a transaction—

“(i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or

“(ii) which was so identified but is not a hedging transaction.

“(3) *REGULATIONS.*—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (6) and (7) of subsection (a) in the case of transactions involving related parties.”

(b) *MANAGEMENT OF RISK.*—

(1) Section 475(c)(3) of such Code is amended by striking “reduces” and inserting “manages”.

(2) Section 871(h)(4)(C)(iv) of such Code is amended by striking “to reduce” and inserting “to manage”.

(3) Clauses (i) and (ii) of section 988(d)(2)(A) of such Code are each amended by striking “to reduce” and inserting “to manage”.

(4) Paragraph (2) of section 1256(e) of such Code is amended to read as follows:

“(2) **DEFINITION OF HEDGING TRANSACTION.**—For purposes of this subsection, the term ‘hedging transaction’ means any hedging transaction (as defined in section 1221(b)(2)(A)) if, before the close of the day on which such transaction was entered into (or such earlier time as the Secretary may prescribe by regulations), the taxpayer clearly identifies such transaction as being a hedging transaction.”

(c) **CONFORMING AMENDMENTS.**—

(1) Each of the following sections of such Code are amended by striking “section 1221” and inserting “section 1221(a)”:

- (A) Section 170(e)(3)(A).
- (B) Section 170(e)(4)(B).
- (C) Section 367(a)(3)(B)(i).
- (D) Section 818(c)(3).
- (E) Section 865(i)(1).
- (F) Section 1092(a)(3)(B)(ii)(II).
- (G) Subparagraphs (C) and (D) of section 1231(b)(1).
- (H) Section 1234(a)(3)(A).

(2) Each of the following sections of such Code are amended by striking “section 1221(1)” and inserting “section 1221(a)(1)”:

- (A) Section 198(c)(1)(A)(i).
- (B) Section 263A(b)(2)(A).
- (C) Clauses (i) and (iii) of section 267(f)(3)(B).
- (D) Section 341(d)(3).
- (E) Section 543(a)(1)(D)(i).
- (F) Section 751(d)(1).
- (G) Section 775(c).
- (H) Section 856(c)(2)(D).
- (I) Section 856(c)(3)(C).
- (J) Section 856(e)(1).
- (K) Section 856(j)(2)(B).
- (L) Section 857(b)(4)(B)(i).
- (M) Section 857(b)(6)(B)(iii).
- (N) Section 864(c)(4)(B)(iii).
- (O) Section 864(d)(3)(A).
- (P) Section 864(d)(6)(A).
- (Q) Section 954(c)(1)(B)(iii).
- (R) Section 995(b)(1)(C).
- (S) Section 1017(b)(3)(E)(i).
- (T) Section 1362(d)(3)(C)(ii).
- (U) Section 4662(c)(2)(C).
- (V) Section 7704(c)(3).
- (W) Section 7704(d)(1)(D).
- (X) Section 7704(d)(1)(G).
- (Y) Section 7704(d)(5).

(3) Section 818(b)(2) of such Code is amended by striking “section 1221(2)” and inserting “section 1221(a)(2)”.

(4) Section 1397B(e)(2) of such Code is amended by striking “section 1221(4)” and inserting “section 1221(a)(4)”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to any instrument held, acquired, or entered into, any

transaction entered into, and supplies held or acquired on or after the date of the enactment of this Act.

**SEC. 533. EXPANSION OF REPORTING OF CANCELLATION OF INDEBTEDNESS INCOME.**

(a) **IN GENERAL.**—Paragraph (2) of section 6050P(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting after subparagraph (C) the following new subparagraph:

“(D) any organization a significant trade or business of which is the lending of money.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

**SEC. 534. LIMITATION ON CONVERSION OF CHARACTER OF INCOME FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.**

(a) **IN GENERAL.**—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1259 the following new section:

**“SEC. 1260. GAINS FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.**

“(a) **IN GENERAL.**—If the taxpayer has gain from a constructive ownership transaction with respect to any financial asset and such gain would (without regard to this section) be treated as a long-term capital gain—

“(1) such gain shall be treated as ordinary income to the extent that such gain exceeds the net underlying long-term capital gain, and

“(2) to the extent such gain is treated as a long-term capital gain after the application of paragraph (1), the determination of the capital gain rate (or rates) applicable to such gain under section 1(h) shall be determined on the basis of the respective rate (or rates) that would have been applicable to the net underlying long-term capital gain.

**“(b) INTEREST CHARGE ON DEFERRAL OF GAIN RECOGNITION.—**

“(1) **IN GENERAL.**—If any gain is treated as ordinary income for any taxable year by reason of subsection (a)(1), the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined under paragraph (2) with respect to each prior taxable year during any portion of which the constructive ownership transaction was open. Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

“(2) **AMOUNT OF INTEREST.**—The amount of interest determined under this paragraph with respect to a prior taxable year is the amount of interest which would have been imposed under section 6601 on the underpayment of tax for such year which would have resulted if the gain (which is treated as ordinary income by reason of subsection (a)(1)) had been included in gross income in the taxable years in which it accrued (determined by treating the income as accruing at a constant rate equal to the applicable Federal rate as in effect on the day the

transaction closed). The period during which such interest shall accrue shall end on the due date (without extensions) for the return of tax imposed by this chapter for the taxable year in which such transaction closed.

"(3) **APPLICABLE FEDERAL RATE.**—For purposes of paragraph (2), the applicable Federal rate is the applicable Federal rate determined under section 1274(d) (compounded semiannually) which would apply to a debt instrument with a term equal to the period the transaction was open.

"(4) **NO CREDITS AGAINST INCREASE IN TAX.**—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the tax imposed by section 55.

"(c) **FINANCIAL ASSET.**—For purposes of this section—

"(1) **IN GENERAL.**—The term 'financial asset' means—

"(A) any equity interest in any pass-thru entity, and

"(B) to the extent provided in regulations—

"(i) any debt instrument, and

"(ii) any stock in a corporation which is not a pass-thru entity.

"(2) **PASS-THRU ENTITY.**—For purposes of paragraph (1), the term 'pass-thru entity' means—

"(A) a regulated investment company,

"(B) a real estate investment trust,

"(C) an S corporation,

"(D) a partnership,

"(E) a trust,

"(F) a common trust fund,

"(G) a passive foreign investment company (as defined in section 1297 without regard to subsection (e) thereof),

"(H) a foreign personal holding company,

"(I) a foreign investment company (as defined in section 1246(b)), and

"(J) a REMIC.

"(d) **CONSTRUCTIVE OWNERSHIP TRANSACTION.**—For purposes of this section—

"(1) **IN GENERAL.**—The taxpayer shall be treated as having entered into a constructive ownership transaction with respect to any financial asset if the taxpayer—

"(A) holds a long position under a notional principal contract with respect to the financial asset,

"(B) enters into a forward or futures contract to acquire the financial asset,

"(C) is the holder of a call option, and is the grantor of a put option, with respect to the financial asset and such options have substantially equal strike prices and substantially contemporaneous maturity dates, or

"(D) to the extent provided in regulations prescribed by the Secretary, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

"(2) **EXCEPTION FOR POSITIONS WHICH ARE MARKED TO MARKET.**—This section shall not apply to any constructive ownership transaction if all of the positions which are part of such transaction are marked to market under any provision of this title or the regulations thereunder.

"(3) **LONG POSITION UNDER NOTIONAL PRINCIPAL CONTRACT.**—A person shall be treated as holding a long position under a notional principal contract with respect to any financial asset if such person—

"(A) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on such financial asset for a specified period, and

"(B) is obligated to reimburse (or provide credit for) all or substantially all of any decline in the value of such financial asset.

"(4) **FORWARD CONTRACT.**—The term 'forward contract' means any contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

"(e) **NET UNDERLYING LONG-TERM CAPITAL GAIN.**—For purposes of this section, in the case of any constructive ownership transaction with respect to any financial asset, the term 'net underlying long-term capital gain' means the aggregate net capital gain that the taxpayer would have had if—

"(1) the financial asset had been acquired for fair market value on the date such transaction was opened and sold for fair market value on the date such transaction was closed, and

"(2) only gains and losses that would have resulted from the deemed ownership under paragraph (1) were taken into account.

The amount of the net underlying long-term capital gain with respect to any financial asset shall be treated as zero unless the amount thereof is established by clear and convincing evidence.

"(f) **SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY.**—Except as provided in regulations prescribed by the Secretary, if a constructive ownership transaction is closed by reason of taking delivery, this section shall be applied as if the taxpayer had sold all the contracts, options, or other positions which are part of such transaction for fair market value on the closing date. The amount of gain recognized under the preceding sentence shall not exceed the amount of gain treated as ordinary income under subsection (a). Proper adjustments shall be made in the amount of any gain or loss subsequently realized for gain recognized and treated as ordinary income under this subsection.

"(g) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to permit taxpayers to mark to market constructive ownership transactions in lieu of applying this section, and

"(2) to exclude certain forward contracts which do not convey substantially all of the economic return with respect to a financial asset."



(b) **CLERICAL AMENDMENT.**—The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 1260. Gains from constructive ownership transactions.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to transactions entered into after July 11, 1999.

**SEC. 535. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.**

(a) **EXTENSION.**—

(1) **IN GENERAL.**—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking “in any taxable year beginning after December 31, 2000” and inserting “made after December 31, 2005”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking “in a taxable year beginning before January 1, 2001” and inserting “made before January 1, 2006”, and

(ii) by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(b) **APPLICATION OF MINIMUM COST REQUIREMENTS.**—

(1) **IN GENERAL.**—Paragraph (3) of section 420(c) of the Internal Revenue Code of 1986 is amended to read as follows:

“(3) **MINIMUM COST REQUIREMENTS.**—

“(A) **IN GENERAL.**—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

“(B) **APPLICABLE EMPLOYER COST.**—For purposes of this paragraph, the term ‘applicable employer cost’ means, with respect to any taxable year, the amount determined by dividing—

“(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

“(I) without regard to any reduction under subsection (e)(1)(B), and

“(II) in the case of a taxable year in which there was no qualified transfer, in the same man-

ner as if there had been such a transfer at the end of the taxable year, by

“(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

“(C) **ELECTION TO COMPUTE COST SEPARATELY.**—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

“(D) **COST MAINTENANCE PERIOD.**—For purposes of this paragraph, the term ‘cost maintenance period’ means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

“(E) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement of this subsection.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Clause (iii) of section 420(b)(1)(C) of such Code is amended by striking “benefits” and inserting “cost”.

(B) Subparagraph (D) of section 420(e)(1) of such Code is amended by striking “and shall not be subject to the minimum benefit requirements of subsection (c)(3)” and inserting “or in calculating applicable employer cost under subsection (c)(3)(B)”.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to qualified transfers occurring after the date of the enactment of this Act.

(2) **TRANSITION RULE.**—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).

**SEC. 536. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.**

(a) **REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.**—

(1) **IN GENERAL.**—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

“(a) **USE OF INSTALLMENT METHOD.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

"(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2)."

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking "(a)" each place it appears and inserting "(a)(1)".

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) of such Code (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: "A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

**SEC. 537. DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION FOR TRANSFERS ASSOCIATED WITH SPLIT-DOLLAR INSURANCE ARRANGEMENTS.**

(a) IN GENERAL.—Subsection (f) of section 170 of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

"(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

"(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

"(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

"(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

"(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

**“(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—***If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—*

*“(i) such organization possesses all of the incidents of ownership under such contract,*

*“(ii) such organization is entitled to all the payments under such contract, and*

*“(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).*

**“(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—***A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—*

*“(i) such trust possesses all of the incidents of ownership under such contract, and*

*“(ii) such trust is entitled to all the payments under such contract.*

**“(F) EXCISE TAX ON PREMIUMS PAID.—**

*“(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.*

*“(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.*

*“(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—*

*“(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and*

*“(II) such other information as the Secretary may require.*

*The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.*

*“(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.*

*“(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITY IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—*

*“(i) such State law requirement was in effect on February 8, 1999,*

*“(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and*

*“(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.*

*“(H) MEMBER OF FAMILY.—For purposes of this paragraph, an individual’s family consists of the individual’s grandparents, the grandparents of such individual’s spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.*

*“(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.”.*

*(b) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.*

*(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.*

*(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).*

**SEC. 538. DISTRIBUTIONS BY A PARTNERSHIP TO A CORPORATE PARTNER OF STOCK IN ANOTHER CORPORATION.**

(a) *IN GENERAL.*—Section 732 of the Internal Revenue Code of 1986 (relating to basis of distributed property other than money) is amended by adding at the end the following new subsection:

*(f) CORRESPONDING ADJUSTMENT TO BASIS OF ASSETS OF A DISTRIBUTED CORPORATION CONTROLLED BY A CORPORATE PARTNER.*—

*(1) IN GENERAL.*—If—

*(A)* a corporation (hereafter in this subsection referred to as the ‘corporate partner’) receives a distribution from a partnership of stock in another corporation (hereafter in this subsection referred to as the ‘distributed corporation’),

*(B)* the corporate partner has control of the distributed corporation immediately after the distribution or at any time thereafter, and

*(C)* the partnership’s adjusted basis in such stock immediately before the distribution exceeded the corporate partner’s adjusted basis in such stock immediately after the distribution,

then an amount equal to such excess shall be applied to reduce (in accordance with subsection (c)) the basis of property held by the distributed corporation at such time (or, if the corporate partner does not control the distributed corporation at such time, at the time the corporate partner first has such control).

*(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS BEFORE CONTROL ACQUIRED.*—Paragraph (1) shall not apply to any distribution of stock in the distributed corporation if—

*(A)* the corporate partner does not have control of such corporation immediately after such distribution, and

*(B)* the corporate partner establishes to the satisfaction of the Secretary that such distribution was not part of a plan or arrangement to acquire control of the distributed corporation.

*(3) LIMITATIONS ON BASIS REDUCTION.*—

*(A) IN GENERAL.*—The amount of the reduction under paragraph (1) shall not exceed the amount by which the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds the corporate partner’s adjusted basis in the stock of the distributed corporation.

*(B) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.*—No reduction under paragraph (1) in the basis of any property shall exceed the adjusted basis of such property (determined without regard to such reduction).

*(4) GAIN RECOGNITION WHERE REDUCTION LIMITED.*—If the amount of any reduction under paragraph (1) (determined after the application of paragraph (3)(A)) exceeds the aggregate adjusted bases of the property of the distributed corporation—

*(A)* such excess shall be recognized by the corporate partner as long-term capital gain, and

*(B)* the corporate partner’s adjusted basis in the stock of the distributed corporation shall be increased by such excess.

“(5) **CONTROL.**—For purposes of this subsection, the term ‘control’ means ownership of stock meeting the requirements of section 1504(a)(2).

“(6) **INDIRECT DISTRIBUTIONS.**—For purposes of paragraph (1), if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to subsection (a)(2) or (b), the corporation shall be treated as receiving a distribution of such stock from a partnership.

“(7) **SPECIAL RULE FOR STOCK IN CONTROLLED CORPORATION.**—If the property held by a distributed corporation is stock in a corporation which the distributed corporation controls, this subsection shall be applied to reduce the basis of the property of such controlled corporation. This subsection shall be re-applied to any property of any controlled corporation which is stock in a corporation which it controls.

“(8) **REGULATIONS.**—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to avoid double counting and to prevent the abuse of such purposes.”

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by this section shall apply to distributions made after July 14, 1999.

(2) **PARTNERSHIPS IN EXISTENCE ON JULY 14, 1999.**—In the case of a corporation which is a partner in a partnership as of July 14, 1999, the amendment made by this section shall apply to any distribution made (or treated as made) to such partner from such partnership after June 30, 2001, except that this paragraph shall not apply to any distribution after the date of the enactment of this Act unless the partner makes an election to have this paragraph apply to such distribution on the partner’s return of Federal income tax for the taxable year in which such distribution occurs.

## **PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS**

### **Subpart A—Treatment of Income and Services Provided by Taxable REIT Subsidiaries**

#### **SEC. 541. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.**

(a) **IN GENERAL.**—Subparagraph (B) of section 856(c)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includable under subparagraph (A)),

“(ii) not more than 20 percent of the value of its total assets is represented by securities of 1 or more taxable REIT subsidiaries, and

“(iii) except with respect to a taxable REIT subsidiary and securities includable under subparagraph (A)—

“(I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,

“(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and

“(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.”

(b) **EXCEPTION FOR STRAIGHT DEBT SECURITIES.**—Subsection (c) of section 856 of such Code is amended by adding at the end the following new paragraph:

“(7) **STRAIGHT DEBT SAFE HARBOR IN APPLYING PARAGRAPH (4).**—Securities of an issuer which are straight debt (as defined in section 1361(c)(5) without regard to subparagraph (B)(iii) thereof) shall not be taken into account in applying paragraph (4)(B)(ii)(III) if—

“(A) the issuer is an individual, or

“(B) the only securities of such issuer which are held by the trust or a taxable REIT subsidiary of the trust are straight debt (as so defined), or

“(C) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.”

**SEC. 542. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.**

(a) **INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.**—Clause (i) of section 856(d)(7)(C) of the Internal Revenue Code of 1986 (relating to exceptions to impermissible tenant service income) is amended by inserting “or through a taxable REIT subsidiary of such trust” after “income”.

(b) **CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.**—

(1) **IN GENERAL.**—Subsection (d) of section 856 of such Code (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

“(8) **SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.**—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of either of the following subparagraphs are met:

“(A) **LIMITED RENTAL EXCEPTION.**—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust’s property for comparable space.

“(B) **EXCEPTION FOR CERTAIN LODGING FACILITIES.**—The requirements of this subparagraph are met with re-



spect to an interest in real property which is a qualified lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

“(9) **ELIGIBLE INDEPENDENT CONTRACTOR.**—For purposes of paragraph (8)(B)—

“(A) **IN GENERAL.**—The term ‘eligible independent contractor’ means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) **SPECIAL RULES.**—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

“(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

“(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

“(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

“(I) January 1, 1999, or

“(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility.

“(C) **RENEWALS, ETC., OF EXISTING LEASES.**—For purposes of subparagraph (B)(iii)—

“(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

“(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

“(I) on such date, a lease of such property from the trust was in effect, and

“(II) under the terms of the new lease, such trust receives a substantially similar or lesser ben-

efit in comparison to the lease referred to in subclause (I).

**“(D) QUALIFIED LODGING FACILITY.**—For purposes of this paragraph—

**“(i) IN GENERAL.**—The term ‘qualified lodging facility’ means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

**“(ii) LODGING FACILITY.**—The term ‘lodging facility’ means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

**“(iii) CUSTOMARY AMENITIES AND FACILITIES.**—The term ‘lodging facility’ includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

**“(E) OPERATE INCLUDES MANAGE.**—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

**“(F) RELATED PERSON.**—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.”

**(2) CONFORMING AMENDMENT.**—Subparagraph (B) of section 856(d)(2) of such Code is amended by inserting “except as provided in paragraph (8),” after “(B)”.

**(3) DETERMINING RENTS FROM REAL PROPERTY.**—

**(A)(i)** Paragraph (1) of section 856(d) of such Code is amended by striking “adjusted bases” each place it occurs and inserting “fair market values”.

**(ii)** The amendment made by this subparagraph shall apply to taxable years beginning after December 31, 2000.

**(B)(i)** Clause (i) of section 856(d)(2)(B) of such Code is amended by striking “number” and inserting “value”.

**(ii)** The amendment made by this subparagraph shall apply to amounts received or accrued in taxable years beginning after December 31, 2000, except for amounts paid pursuant to leases in effect on July 12, 1999, or pursuant to a binding contract in effect on such date and at all times thereafter.

**SEC. 543. TAXABLE REIT SUBSIDIARY.**

**(a) IN GENERAL.**—Section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

**“(l) TAXABLE REIT SUBSIDIARY.**—For purposes of this part—

**“(1) IN GENERAL.**—The term ‘taxable REIT subsidiary’ means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

**“(A)** such trust directly or indirectly owns stock in such corporation, and

“(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

“(2) 35 PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term ‘taxable REIT subsidiary’ includes, with respect to any real estate investment trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

“(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

“(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)). The rule of section 856(c)(7) shall apply for purposes of subparagraph (B).

“(3) EXCEPTIONS.—The term ‘taxable REIT subsidiary’ shall not include—

“(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

“(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

“(4) DEFINITIONS.—For purposes of paragraph (3)—

“(A) LODGING FACILITY.—The term ‘lodging facility’ has the meaning given to such term by paragraph (9)(D)(ii).

“(B) HEALTH CARE FACILITY.—The term ‘health care facility’ has the meaning given to such term by subsection (e)(6)(D)(ii).”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) of such Code is amended by adding at the end the following new sentence: “Such term shall not include a taxable REIT subsidiary.”.

**SEC. 544. LIMITATION ON EARNINGS STRIPPING.**

Paragraph (3) of section 163(j) of the Internal Revenue Code of 1986 (relating to limitation on deduction for interest on certain indebtedness) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.”

**SEC. 545. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.**

(a) **IN GENERAL.**—Subsection (b) of section 857 of the Internal Revenue Code of 1986 (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

“(7) **INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.**—

“(A) **IMPOSITION OF TAX.**—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

“(B) **REDETERMINED RENTS.**—

“(i) **IN GENERAL.**—The term ‘redetermined rents’ means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

“(ii) **EXCEPTION FOR CERTAIN SERVICES.**—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

“(iii) **EXCEPTION FOR DE MINIMIS AMOUNTS.**—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

“(iv) **EXCEPTION FOR COMPARABLY PRICED SERVICES.**—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

“(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

“(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

“(v) **EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.**—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

“(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust’s property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

“(II) the charge for such service from such subsidiary is separately stated.

“(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY’S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary’s direct cost in furnishing or rendering the service.

“(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms’ length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

“(C) REDETERMINED DEDUCTIONS.—The term ‘redetermined deductions’ means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

“(D) EXCESS INTEREST.—The term ‘excess interest’ means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

“(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

“(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.”

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) of such Code (relating to real estate investment trust taxable income) is amended by striking “paragraph (5)” and inserting “paragraphs (5) and (7)”.

**SEC. 546. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this subpart shall apply to taxable years beginning after December 31, 2000.

(b) TRANSITIONAL RULES RELATED TO SECTION 541.—

(1) EXISTING ARRANGEMENTS.—

(A) *IN GENERAL.*—Except as otherwise provided in this paragraph, the amendment made by section 541 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on July 12, 1999,

(ii) securities of a corporation held by an entity on July 12, 1999, if such trust acquires control of such entity pursuant to a written binding contract in effect on such date and at all times thereafter before such acquisition,

(iii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) or (ii) in a transaction in which gain or loss is not recognized, and

(iv) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are described in clause (i), (ii), or (iii) with respect to any other real estate investment trust.

(B) *NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.*—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after July 12, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset,

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986, or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(C) *LIMITATION ON TRANSITION RULES.*—Subparagraph (A) shall cease to apply to securities of a corporation held, acquired, or received, directly or indirectly, by a real estate investment trust as of the first day after July 12, 1999, on which such trust acquires any additional securities of such corporation other than—

(i) pursuant to a binding contract in effect on July 12, 1999, and at all times thereafter, or

(ii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) *TAX-FREE CONVERSION.*—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 541 does not apply to such corporation by reason of paragraph (1), and

(B) such election first takes effect before January 1, 2004,  
such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

**SEC. 547. STUDY RELATING TO TAXABLE REIT SUBSIDIARIES.**

The Secretary of the Treasury shall conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries. The Secretary shall submit a report to the Congress describing the results of such study.

**Subpart B—Health Care REITs****SEC. 551. HEALTH CARE REITS.**

(a) **SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.**—Subsection (e) of section 856 of the Internal Revenue Code of 1986 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

“(6) **SPECIAL RULE FOR QUALIFIED HEALTH CARE PRO-**

**PERTIES.**—For purposes of this subsection—

“(A) **ACQUISITION AT EXPIRATION OF LEASE.**—The term ‘foreclosure property’ shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

“(B) **GRACE PERIOD.**—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

“(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

“(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust’s interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

“(C) **INCOME FROM INDEPENDENT CONTRACTORS.**—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

“(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

“(ii) any lease of property entered into after such date if—

“(I) on such date, a lease of such property from the trust was in effect, and

“(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

“(D) QUALIFIED HEALTH CARE PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified health care property’ means any real property (including interests therein), and any personal property incident to such real property, which—

“(I) is a health care facility, or

“(II) is necessary or incidental to the use of a health care facility.

“(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term ‘health care facility’ means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

### **Subpart C—Conformity With Regulated Investment Company Rules**

#### **SEC. 556. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.**

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) of the Internal Revenue Code of 1986 (relating to requirements applicable to real estate investment trusts) are each amended by striking “95 percent (90 percent for taxable years beginning before January 1, 1980)” and inserting “90 percent”.

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) of such Code (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking “95 percent (90 percent in the case of taxable years beginning before January 1, 1980)” and inserting “90 percent”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.



### **Subpart D—Clarification of Exception From Impermissible Tenant Service Income**

#### **SEC. 561. CLARIFICATION OF EXCEPTION FOR INDEPENDENT OPERATORS.**

(a) *IN GENERAL.*—Paragraph (3) of section 856(d) of the Internal Revenue Code of 1986 (relating to independent contractor defined) is amended by adding at the end the following flush sentence: “In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).”

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

### **Subpart E—Modification of Earnings and Profits Rules**

#### **SEC. 566. MODIFICATION OF EARNINGS AND PROFITS RULES.**

(a) *RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.*—

(1) *IN GENERAL.*—Subsection (c) of section 852 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) *DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).*—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

“(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and

“(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.”

(2) *CONFORMING AMENDMENT.*—Subparagraph (A) of section 857(d)(3) of such Code is amended to read as follows:

“(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and”.

(b) *CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIRE-*

MENT.—Subparagraph (B) of section 857(d)(3) of such Code is amended by inserting before the period “and section 858”.

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) of such Code is amended by adding at the end the following new sentence: “If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

### **Subpart F—Modification of Estimated Tax Rules**

#### **SEC. 571. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.**

(a) IN GENERAL.—Subsection (e) of section 6655 of the Internal Revenue Code of 1986 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

“(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—

“(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

“(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term ‘closely held real estate investment trust’ means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after December 15, 1999.

And the Senate agree to the same.

BILL ARCHER,  
TOM BLILEY,  
DICK ARMEY,

*Managers on the Part of the House.*

W.V. ROTH, Jr.,  
TRENT LOTT,

*Managers on the Part of the Senate.*

JOINT EXPLANATION 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. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, 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.

**THE TICKET TO WORK AND WORK INCENTIVES  
IMPROVEMENT ACT OF 1999**

**EXPLANATION OF THE CONFERENCE AGREEMENT**

**Short Title**

*Present law*

No provision.

*House bill*

The "Ticket to Work and Work Incentives Improvement Act of 1999".

*Senate amendment*

The "Work Incentives Improvement Act of 1999".

*Conference agreement*

The Senate recedes to the House.

**Long Title**

*Present law*

No provision.

*House bill*

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Findings and Purposes***Present law*

No provision.

*House bill*

No provision.

*Senate amendment*

Makes a number of findings related to the importance of health care especially for individuals with disabilities, the difficulties they often experience in obtaining proper health care coverage under current program rules, the resulting limited departures from benefit rolls due to recipients' fears of losing coverage, and the potential program savings from providing them better access to coverage if they return to work.

The Senate amendment describes as its purposes to provide individuals with disabilities: (1) health care and employment preparation and placement services to reduce their dependency on cash benefits; (2) Medicaid coverage (through incentives to States to allow them to purchase it) needed to maintain employment; (3) the option of maintaining Medicare coverage while working; and (4) return to work tickets allowing them access to services needed to obtain and retain employment and reduce dependence on cash benefits.

*Conference agreement*

The House recedes to the Senate with the modification that additional findings are added that address employment opportunities and financial disincentives.

## **Title I. Ticket to Work and Self-Sufficiency and Related Provisions**

### **Establishment of the Ticket to Work and Self-Sufficiency Program**

#### **1. Ticket System**

##### *Present law*

The Commissioner is required to promptly refer individuals applying for Social Security disability insurance (SSDI) or Supplemental Security Income (SSI) benefits for necessary vocational rehabilitation (VR) services to State vocational rehabilitation (VR) agencies. State VR agencies are established pursuant to Title I of the Rehabilitation Act of 1973, as amended. A State VR agency is reimbursed for the costs of VR services to SSDI and SSI beneficiaries with a single payment after the beneficiary performs "substantial gainful activity" (i.e., had earnings in excess of \$700 per month) for a continuous period of at least nine months. The Social Security Administration (SSA) has also established an "alternate participant program" in regulation where private or other public agencies are eligible to receive reimbursement from SSA for providing VR and related services to SSDI and SSI beneficiaries. To participate in the alternate participant program, a beneficiary must first be referred to, and declined by, a State VR agency. Such private and public agencies are reimbursed according to the same procedures as State VR agencies.

##### *House bill*

The House bill creates a Ticket to Work and Self-Sufficiency program. Under the program, the Commissioner of Social Security is authorized to provide SSDI and disabled SSI beneficiaries with a "ticket" which they may use to obtain employment services, VR services, and other support services (e.g., assistive technology) from an employment network (that is, provider of services) of their choice to enable them to enter the workforce.

Employment networks may include both State VR agencies and private and other public providers. Employment networks would be prohibited from seeking additional compensation from beneficiaries. The bill provides State VR agencies with the option of participating in the program as an employment network or remaining in the current law reimbursement system, including the option to elect either payment method on a case-by-case basis. Services provided by State VR agencies participating in the program would be governed by plans for VR services approved under Title I of the Rehabilitation Act. The Commissioner would issue regulations regarding the relationship between State VR agencies and other employment networks. It is intended that the agreements would be broad-based, rather than case-by-case agreements. The Commissioner is also required to issue regulations to address other implementation issues, including distribution of tickets to beneficiaries.

The bill requires the program to be phased in at sites selected by the Commissioner beginning no later than 1 year after enact-

ment. The program would be fully implemented as soon as practicable, but not later than 3 years after the program begins.

*Senate amendment*

Similar provision, except adds a section on special requirements applicable to cross-referral of ticket holders to certain State agencies.

*Conference agreement*

The Senate recedes to the House.

2. Program Managers

*Present law*

No provision. (See description of present law under "1. Ticket System" above.)

*House bill*

The Commissioner is required to contract with "program managers," i.e., one or more organizations in the private or public sector with expertise and experience in the field of vocational rehabilitation or employment services through a competitive bidding process, to assist the Social Security Administration to administer the program. Agreements between SSA and program managers shall include performance standards, including measures of access of beneficiaries to services. Program managers would be precluded from providing services in their own service area.

Program managers would recruit and recommend employment networks to the Commissioner, ensure adequate availability of services to beneficiaries and provide assurances to SSA that employment networks are complying with terms of their agreement. In addition, program managers would provide for changes in employment networks by beneficiaries.

*Senate amendment*

Similar provision, except the Senate amendment places an additional restriction on changes in employment networks by specifying that ticket holders may elect such changes only "for good cause, as determined by the Commissioner." In addition, the Senate amendment does not specify that when changes in employment networks occur the program manager is to (1) reassign the ticket based on the choice of the beneficiary and (2) make a determination regarding the allocation of payments to each employment network.

*Conference agreement*

The Senate recedes to the House.

3. Employment Networks

*Present law*

No provision. (See description of present law under "1. Ticket System" above.)

*House bill*

Employment networks consist of a single provider (public or private) or an association of providers which would assume responsibility for the coordination and delivery of services. Employment networks may include a one-stop delivery system established under Title I of the Workforce Investment Act of 1998. Employment networks are required to demonstrate specific expertise and experience and provide an array of services under the program. The Commissioner would select and enter into agreements with employment networks, provide periodic quality assurance reviews of employment networks, and establish a method for resolving disputes between beneficiaries and employment networks. Employment networks would meet financial reporting requirements as prescribed by the Commissioner, and prepare periodic performance reports which would be provided to beneficiaries holding a ticket and made available to the public.

Employment networks and beneficiaries would together develop an individual employment plan for each beneficiary that provides for informed choice in selecting an employment goal and specific services needed to achieve that goal. A beneficiary's written plan would take effect upon written approval by the beneficiary or beneficiary's representative.

*Senate amendment*

Identical provision regarding qualification, requirements, and reporting involving employment networks. Similar provision regarding individual employment plans, except that the Senate amendment does not require the statement of vocational goals to include "as appropriate, goals for earnings and job advancement."

*Conference agreement*

The Senate recedes to the House.

## 4. Payment to Employment Networks

*Present law*

No provision. (See description of present law under "1. Ticket System" above.)

*House bill*

The bill authorizes payment to employment networks for outcomes and long-term results through one of two payment systems, each designed to encourage maximum participation by providers to serve beneficiaries:

The outcome payment system would provide payment to employment networks up to 40 percent of the average monthly disability benefit for each month benefits are not be payable to the beneficiary due to work, not to exceed 60 months.

The outcome-milestone payment system is similar to the outcome payment system, except it would provide for early payment(s) based on the achievement of one or more milestones directed towards the goal of permanent employment. To ensure the cost-effectiveness of the program, the total amount payable to a service provider under the outcome-milestone payment system must be less

than the total amount that would have been payable under the outcome payment system.

The Commissioner is required to periodically review both payment systems and may alter the percentages, milestones, or payment periods to ensure that employment networks have adequate incentive to assist beneficiaries in entering the workforce. In addition, the Commissioner is required to submit a report to Congress with recommendations for methods to adjust payment rates to ensure adequate incentives for the provision of services to individuals with special needs.

The bill requires the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to "high risk" beneficiaries.

The bill authorizes transfers from the Social Security Trust Funds to carry out these provisions for Social Security beneficiaries, and authorizes appropriations to the Social Security Administration to carry out these provisions for SSI recipients.

*Senate amendment*

Similar provision, except that the Senate amendment:

Does not require the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to "high risk" beneficiaries;

Provides for "Allocation of Costs" to employment networks from the Trust Funds for services rendered (rather than authorizing such amounts be transferred as in the House bill); and

Provides for specific treatment of the costs associated with dually-entitled individuals (that is, individuals receiving both SSI and SSDI benefits).

*Conference agreement*

The Senate recedes to the House.

5. Evaluation

*Present law*

No provision. (See description of present law under "1. Ticket System" above.)

*House bill*

The Commissioner is required to design and conduct a series of evaluations to assess the cost-effectiveness and outcomes of the program. The Commissioner is required to periodically provide to the Congress a detailed report of the program's progress, success, and any modifications needed.

*Senate amendment*

Similar provision, except the Senate amendment does not require evaluations to address the characteristics of ticket holders who are not accepted for services and reasons they were not accepted.



*Conference agreement*

The conference agreement follows the House bill and the Senate amendment with the modification that the Commissioner is required to provide for independent evaluations of program effectiveness.

## 6. Advisory Panel

*Present law*

No provision. (See description of present law under "1. Ticket System" above.)

*House bill*

The bill establishes a Ticket to Work and Work Incentives Advisory Panel consisting of experts representing consumers, providers of services, employers, and employees, at least one-half of whom are individuals with disabilities or representatives of individuals with disabilities. The Advisory Panel is to be composed of twelve members appointed as follows:

Four by the President, not more than two of whom may be of the same political party;

Two by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means;

Two by the Minority Leader of the House of Representatives, in consultation with ranking minority member of the Committee on Ways and Means;

Two by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Finance; and

Two members would be appointed by the Minority Leader of the Senate, in consultation with the ranking minority member of the Committee on Finance.

The Panel is to advise the Commissioner and report to the Congress on program implementation including such issues as the establishment of pilot sites, refinements to the program, and the design of program evaluations.

*Senate amendment*

Similar provision, except the Senate amendment:

Names the panel the Work Incentives Advisory Panel;

Does not specify that, of the 4 members of the panel appointed by the President, "not more than 2 . . . may be of the same political party";

Provides that the Commissioner, as opposed to the President under the House bill, is to designate whether panel members' initial terms will be 2 or 4 years;

Specifies that "all members appointed to the panel shall have experience or expert knowledge of" several work and disability-related fields, whereas the House bill requires that "at least 8" shall have such experience or knowledge, with at least 2 "representing the interests of" each of the following groups: service recipients, service providers, employers, and employees;

Provides that the Director of the Advisory Panel is to be appointed by the Commissioner in the Senate amendment (compared with by the Advisory Panel in the House bill); and

Provides that the costs of the Panel "shall be paid from amounts made available" for administration of the Title II and Title XVI programs under the Senate amendment (compared with the House bill, which authorizes such amounts from the OASI and DI trust funds and from the general fund of the Treasury for this purpose.

*Conference agreement*

The conference agreement follows the House bill, except that all 12 Panel members would be required to have experience or expert knowledge as a recipient, provider, employer, or employee. The agreement is based on the expectation that individuals with disabilities, as opposed to representatives of individuals with disabilities, would be appointed as Panel members whenever possible. In addition, the terms of initial appointment would be set by the individual making the appointment, with each individual making appointments designating one-half of appointees for a term of 4 years and the other half for a term of 2 years. The conference agreement also provides that the Director of the Panel would be appointed by the Chairperson of the Advisory Panel.

**Work Activity Standard as a Basis for Review of an Individual's Disabled Status**

*Present law*

Eligibility for Social Security disability insurance (SSDI) cash benefits requires an applicant to meet certain criteria, including the presence of a disability that renders the individual unable to engage in substantial gainful activity. Substantial gainful activity is defined as work that results in earnings exceeding an amount set in regulations (\$700 per month, as of July 1, 1999). Continuing disability reviews (CDRs) are conducted by the Social Security Administration (SSA) to determine whether an individual remains disabled and thus eligible for continued benefits. CDRs may be triggered by evidence of recovery from disability, including return to work. SSA is also required to conduct periodic CDRs every 3 years for beneficiaries with a nonpermanent disability, and at times determined by the Commissioner for beneficiaries with a permanent disability.

*House bill*

The bill establishes the standard that CDRs for long-term SSDI beneficiaries (i.e., those receiving disability benefits for at least 24 months) be limited to periodic CDRs. SSA would continue to evaluate work activity to determine whether eligibility for cash benefits continued, but a return to work would not trigger a review of the beneficiary's impairment to determine whether it continued to be disabling. This provision is effective January 1, 2003.

*Senate amendment*

Similar provision, except Senate amendment is effective upon enactment.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment, except that the provision would be effective January 1, 2002.

**Expedited Reinstatement of Disability Benefits***Present law*

Individuals entitled to Social Security disability insurance (SSDI) benefits may receive expedited reinstatement of benefits following termination of benefits because of work activity any time during a 36-month extended period of eligibility. That is, benefits may be reinstated without the need for a new application and disability determination. Otherwise, the Commissioner of Social Security must make a new determination of disability before a claimant can reestablish entitlement to disability benefits.

*House bill*

The bill establishes that an individual: (1) whose entitlement to SSDI benefits had been terminated on the basis of work activity following completion of an extended period of eligibility; or (2) whose eligibility for SSI benefits (including special SSI eligibility status under section 1619(b) of the Social Security Act) had been terminated following suspension of those benefits for 12 consecutive months on account of excess income resulting from work activity, may request reinstatement of those benefits without filing a new application. The individual must have become unable to continue working due to his or her medical condition and must file a reinstatement request within the 60-month period following the month of such termination.

While the Commissioner is making a determination pertaining to a reinstatement request, the individual would be eligible for provisional benefits (cash benefits and Medicare or Medicaid, as appropriate) for a period of not more than 6 months. If the Commissioner makes a favorable determination, such individual's prior entitlement to benefits would be reinstated, as would be the prior benefits of his or her dependents who continue to meet the entitlement criteria. If the Commissioner makes an unfavorable determination, provisional benefits would end, but the provisional benefits already paid would not be considered an overpayment. This provision is effective one year after enactment.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

## **Work Incentives Outreach Program**

### *Present law*

The Social Security Administration prepares and distributes educational materials on work incentives for individuals receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits, including on the Internet. Social Security personnel in its 1,300 field offices are available to answer questions about work incentives. Work incentives currently include: exclusions for impairment-related work expenses; trial work periods during which an individual may continue to receive cash benefits; a 36-month extended period of eligibility during which cash benefits can be reinstated at any time; continued eligibility for Medicaid and/or Medicare; continued payment of benefits while a beneficiary is enrolled in a vocational rehabilitation program; and plans for achieving self-support (PASS).

### *House bill*

The Commissioner of Social Security is required to establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals on work incentives. Under this program, the Commissioner is required to:

Establish a program of grants, cooperative agreements, or contracts to provide benefits planning and assistance (including protection and advocacy services) to individuals with disabilities and outreach to individuals with disabilities who are potentially eligible for work incentive programs; and

Establish a corps of work incentive specialists located within the Social Security Administration.

The Commissioner is required to determine the qualifications of agencies eligible for grants, cooperative agreements, or contracts. Social Security Administration field offices and State Medicaid agencies are deemed ineligible. Eligible organizations may include Centers for Independent Living, protection and advocacy organizations, and client assistance programs (established in accordance with the Rehabilitation Act of 1973, as amended); State Developmental Disabilities Councils (established in accordance with the Developmental Disabilities Assistance and Bill of Rights Act); and State welfare agencies (funded under Title IV-A of the Social Security Act).

Annual appropriations would not exceed \$23 million for fiscal years 2000–2004. The provision would be effective on enactment. The grant amount in each State would be based on the number of beneficiaries in the State, subject to certain limits.

### *Senate amendment*

Identical provision.

### *Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

## **State Grants for Work Incentives Assistance to Disabled Beneficiaries**

### *Present law*

Grants to States to provide assistance to individuals with disabilities are authorized under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.). Such assistance includes information on and referral to programs and services and legal, administrative, and other appropriate remedies to ensure access to services.

### *House bill*

The Commissioner of Social Security is authorized to make grants to existing protection and advocacy programs authorized by the States under the Developmental Disabilities Assistance and Bill of Rights Act. Services would include information and advice about obtaining vocational rehabilitation, employment services, advocacy, and other services a Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) beneficiary may need to secure or regain gainful employment, including applying for and receiving work incentives.

Appropriation would not exceed \$7 million for each of the fiscal years 2000–2004. The provision would be effective upon enactment.

### *Senate amendment*

Identical provision.

### *Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

## **Title II. Expanded Availability of Health Care Services**

### **Expanding State Options Under the Medicaid Program for Workers with Disabilities**

#### *Present law*

Most States are required to provide Medicaid coverage for disabled individuals who are eligible for Supplemental Security Income (SSI). Individuals are considered disabled if they are unable to engage in substantial gainful activity (defined in Federal regulations as earnings of \$700 per month) due to a medically determinable physical or mental impairment which is expected to result in death, or which has lasted or can be expected to last for at least 12 months. Eleven States link Medicaid eligibility to disability definitions which may be more restrictive than SSI criteria.

Eligibility for SSI is determined by certain federally-established income and resource standards. Individuals are eligible for SSI if their "countable" income falls below the Federal maximum monthly SSI benefit (\$500 for an individual, and \$751 for couples in 1999). Not all income is counted for SSI purposes. Excluded from income are the first \$20 of any monthly income (i.e., either unearned, such as social security and other pension benefits, or earned) and the first \$65 of monthly earned income plus one-half of the remaining earnings. The Federal limit on resources is \$2,000

for an individual, and \$3,000 for couples. Certain resources are not counted, including an individual's home, and the first \$4,500 of the current market value of an automobile.

In addition, States must provide Medicaid coverage for certain individuals under 65 who are working. These persons are referred to as "qualified severely impaired individuals" under age 65. These are disabled and blind individuals whose earnings reach or exceed the basic SSI benefit standard, with disregards as determined by the States. (The current threshold for earnings is \$1,085 per month.) This special eligibility status applies as long as the individual:

- Continues to be blind or have a disabling impairment;
- Except for earnings, continues to meet all the other requirements for SSI eligibility;
- Would be seriously inhibited from continuing or obtaining employment if Medicaid eligibility were to end; and
- Has earnings that are not sufficient to provide a reasonable equivalent of benefits from SSI, State supplemental payments (if provided by the State), Medicaid, and publicly funded attendant care that would have been available in the absence of those earnings.

A recent change in law allowed States to increase the income limit for Medicaid coverage of disabled individuals. The Balanced Budget Act of 1997 (P.L.105-33) allowed States to elect to provide Medicaid coverage to disabled persons who otherwise meet SSI eligibility criteria but have income up to 250 percent of the Federal poverty guidelines. Beneficiaries under the more liberal income limit may "buy into" Medicaid by paying premium costs. Premiums are set on a sliding scale based on an individual's income, as established by the State.

#### *House bill*

The bill allows States to establish one new optional Medicaid eligibility category: they may provide coverage to individuals with disabilities, aged 16 through 64, who are employed, and who cease to be eligible for Medicaid because their medical condition has improved, and are therefore determined to no longer be eligible for SSI and/or SSDI, but who continue to have a severe medically determinable impairment as defined by regulations of the Secretary of HHS. In addition, States could establish limits on assets, resources, and earned or unearned income for this group that differ from the federal requirements. In order to opt to cover this group, states must provide Medicaid coverage to individuals with disabilities whose income is no more than 250 percent of the federal poverty level, and who would be eligible for SSI, except for earnings.

Individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per month, or are engaged in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of Health and Human Services (HHS).

Individuals covered under this new option could "buy into" Medicaid coverage by paying premiums or other cost-sharing charges on a sliding fee scale based on their income, as established by the State.

The bill requires that in order to receive federal funds, States must maintain the level of expenditures they expended in the most recent fiscal year prior to enactment of this provision to enable working individuals with disabilities to work.

*Senate amendment*

Allows States to establish one or two new optional Medicaid eligibility categories:

States would have the option to cover individuals with disabilities (aged 16–64) who, except for earnings, would be eligible for SSI. In addition, States could establish limits on assets, resources and earned or unearned income that differ from the federal requirements.

If States provide Medicaid coverage to individuals described in (1) above, they may also provide coverage to the following: Employed persons with disabilities whose medical condition has improved, as described above in the House bill.

Individuals covered under these options could “buy in” to Medicaid coverage by paying premiums or other cost-sharing charges on a sliding-fee scale based on income. The State would be required to make premium or other cost-sharing charges the same for both these two new eligibility groups. States may require individuals with incomes above 250 percent of the federal poverty level to pay the full premium cost. In the case of individuals with incomes between 250 percent and 450 percent of the poverty level, premiums may not exceed 7.5 percent of income. States must require individuals with incomes above \$75,000 per year to pay all of the premium costs. States may choose to subsidize premium costs for such individuals, but they may not use federal matching funds to do so.

*Conference agreement*

House recedes to Senate to include the Senate-passed Medicaid buy-in option, allowing States to permit working individuals with incomes above 250 percent of the Federal poverty level to buy-in to the Medicaid program. The conference agreement provides for an effective date of October 1, 2000.

**Extending Medicare Coverage for OASDI Disability Benefit Recipients**

*Present law*

Social Security Disability Insurance (SSDI) beneficiaries are allowed to test their ability to work for at least nine months without affecting their disability or Medicare benefits. Disability payments stop when a beneficiary has monthly earnings at or above the substantial gainful activity level (\$700) after the 9-month period. If the beneficiary remains disabled but continues working, Medicare can continue for an additional 39 months, for a total of 48 months of coverage.

*House bill*

Effective October 1, 2000, the bill provides for continued Medicare Part A coverage for 6 years beyond the current limit.

The bill requires the General Accounting Office (GAO) to submit a report to Congress (no later than 5 years after enactment) that examines the effectiveness and cost of extending Medicare Part A coverage to working disabled persons without charging them a premium; the necessity and effectiveness of providing the continuation of Medicare coverage to disabled individuals with incomes above the Social Security taxable wage base (\$72,600); the use of a sliding-scale premium for high-income disabled individuals; the viability of an employer buy-in to Medicare; the interrelation between the use of continuation of Medicare coverage and private health insurance coverage; and that recommends whether the Medicare coverage extension should continue beyond the extended period provided under the bill.

*Senate amendment*

The amendment provides that during the 6-year period following enactment of the bill, disabled Social Security beneficiaries who engage in substantial gainful activity would be eligible for Medicare Part A coverage. Medicare Part A coverage could continue indefinitely after the termination of the 6-year period following enactment of the bill for any individual who is enrolled in the Medicare Part A program for the month that ends the 6-year period, without requiring the beneficiaries to pay premiums. It also provides for conforming amendments to facilitate this change.

The Senate amendment does not require GAO to examine the viability of an employer buy-in to Medicare.

*Conference agreement*

The Senate recedes to the House, but instead of the 6-year extension beyond current law in the House bill, the agreement includes a 4½ year extension.

**Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities**

*Present law*

No provision.

*House bill*

The bill requires the Secretary of HHS to award grants to States to design, establish and operate infrastructures that provide items and services to support working individuals with disabilities, and to conduct outreach campaigns to inform them about the infrastructures. States would be eligible for these grants under the following conditions:

They must provide Medicaid coverage to employed individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for Supplemental Security Income (SSI), except for earnings; and

They must provide personal assistance services to assist individuals eligible under the bill to remain employed (that is, earn at least the Federal minimum wage and work at least 40 hours per month, or engage in work that meets criteria for



work hours, wages, or other measures established by the State and approved by the Secretary of HHS).

Personal assistance services refers to a range of services provided by one or more persons to assist individuals with disabilities to perform daily activities on and off the job. These services would be designed to increase individuals' control in life.

The Secretary of HHS is required to develop a formula for the award of infrastructure grants. The formula must provide special consideration to States that extend Medicaid coverage to persons who cease to be eligible for SSDI and SSI because of an improvement in their medical condition, but who still have a severe medically determinable impairment and are employed.

Grant amounts to States must be a minimum of \$500,000 per year, and may be up to a maximum of 15 percent of Federal and State Medicaid expenditures for individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for earnings; and for individuals who cease to be eligible for Medicaid because of medical improvement.

States would be required to submit an annual report to the Secretary on the use of grant funds. In addition, the report must indicate the percent increase in the number of SSDI and SSI beneficiaries who return to work.

For developing State infrastructure grants, the bill authorizes the following amount for: FY2000, \$20 million; FY2001, \$25 million; FY2002, \$30 million; FY2003, \$35 million; FY2004, \$40 million; and FY2005–10, the amount of appropriations for the preceding fiscal year plus the percent increase in the CPI for All Urban Consumers for the preceding fiscal year. The bill stipulates budget authority in advance of appropriations.

The Secretary of HHS, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by the bill, is required to make a recommendation by October 1, 2009, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY 2010.

#### *Senate amendment*

Similar provision, except for the following:

States would be eligible for infrastructure grants if they provide Medicaid coverage to individuals with disabilities whose income except for earnings, would make them eligible for SSI, and who meet State-established limits on assets, resources and earned or unearned income;

Special consideration for developing the formula for distribution of infrastructure grants is to be given to States that provide Medicaid benefits to individuals who cease to be eligible for SSDI and SSI because of an improvement in their medical condition, but who have a severe medically determinable impairment and are employed; and The name of the advisory panel is the Work Incentives Advisory Panel.

*Conference agreement*

State participation in the grant programs would be de-linked from adoption of Medicaid optional eligibility categories. Furthermore, the maximum award section would be amended to reflect that delinking. States that do not choose to take up the optional Medicaid eligibility category permitting expansion to individuals with disabilities with incomes up to 250 percent of poverty would be subject to a maximum grant award established by a methodology developed by the Secretary consistent with the limit applied to states that do take up the option. For those states who do take up the option, the maximum will be 10 percent, rather than the 15 percent included in the House and Senate passed bills. These provisions would be effective October 1, 2000, with funding of: FY2001, \$20 million; FY2002, \$25 million; FY2003, \$30 million; FY2004, \$35 million; FY2005, \$40 million; and FY2006–11, the amount of appropriations for the preceding fiscal year plus the percent increase in the CPI for All Urban Consumers for the preceding fiscal year.

The conferees encourage states to exercise the option to permit disabled workers to buy into Medicaid. Providing a Medicaid buy-in option will encourage disabled individuals to return to work without fear of losing their existing health coverage. While election of the Medicaid buy-in option is not a condition of eligibility for infrastructure grants under this section, the conferees urge the Secretary to award such grants with preference for states exercising the buy-in option. Such grants may be used to help finance other State programs facilitating a return to work by disabled individuals, thereby supplementing the Medicaid buy-in benefit as well as other work incentives provided by this Act.

**Demonstration of Coverage under the Medicaid Program of Workers with Potentially Severe Disabilities**

*Present law*

No provision.

*House bill*

The Secretary of HHS is required to approve applications from States to establish demonstration programs that would provide medical assistance equal to that provided under Medicaid for disabled persons age 16–64 who are “workers with a potentially severe disability.” These are individuals who meet a State’s definition of physical or mental impairment, who are employed, and who are reasonably expected to meet SSI’s definition of blindness or disability if they did not receive Medicaid services.

The Secretary is required to approve demonstration programs if the State meets the following requirements:

The State has elected to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings;

Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration is approved; and

The State conducts an independent evaluation of the demonstration program.

The bill allows the Secretary to approve demonstration programs that operate on a sub-State basis.

For purposes of the demonstration, individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per month, or are engaged in work that meets threshold criteria for work hours, wages, or other measures as defined by the demonstration project and approved by the Secretary.

The bill authorizes \$56 million for the 5-year period beginning FY2000. The bill prohibits any further payments to States beginning in FY2006.

Unexpended funds from previous years may be spent in subsequent years, but only through FY2005. The Secretary is required to allocate funds to States based on their applications and the availability of funds. Funds awarded to States would equal their Federal medical assistance percentage (FMAP) of expenditures for medical assistance to workers with a potentially severe disability.

The Secretary of HHS is required to make a recommendation by October 1, 2002, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY2003.

*Senate amendment*

Similar provision, except for the following:

requires States to provide Medicaid coverage to individuals with disabilities whose income except for earnings, would make them eligible for SSI, and who meet State-established limits on assets, resources and earned or unearned income;

authorizes \$72 million for FY 2000, \$74 million for FY 2001, \$78 million for FY2002, and \$81 million for FY 2003;

limits payments to States to no more than \$300 million and prohibits payments beginning in FY2006;

requires States with an approved demonstration to submit an annual report to the Secretary, including data on the total number of persons served by the project, and the number who are "workers with a potentially severe disability." The aggregate amount of payments to States for administrative expenses related to annual reports may not exceed \$5 million.

*Conference agreement*

The conference agreement would authorize the demonstration at \$250 million over 6 years, and eligibility for demonstration funds would be delinked from adoption of Medicaid optional eligibility categories. These provisions would be effective October 1, 2000. In addition, the House recedes to the Senate on the inclusion on the annual report. The limitation on administrative expenses is reduced to \$2 million. States' definitions of workers with potentially severe disabilities can include individuals with a potentially severe disability that can be traced to congenital birth defects as well as diseases or injuries developed or incurred through illness or accident in childhood or adulthood.

**Election by Disabled Beneficiaries to Suspend Medigap Insurance when Covered under a Group Health Plan**

*Present law*

No provision.

*House bill*

The bill requires Medigap supplemental insurance plans to provide that benefits and premiums of such plans be suspended at the policyholder's request if the policyholder is entitled to Medicare Part A benefits as a disabled individual and is covered under a group health plan (offered by an employer with 20 or more employees). If suspension occurs and the policyholder loses coverage under the group health plan, the Medigap policy is required to be automatically reinstated (as of the date of loss of group coverage) if the policyholder provides notice of the loss of such coverage within 90 days of the date of losing group coverage.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Title III. Demonstration Projects and Studies**

**Extension of Disability Insurance Program Demonstration Project Authority**

*Present law*

Section 505 of the Social Security Disability Amendments of 1980, as amended, (42 U.S.C. 1310) provides the Commissioner of Social Security authority to conduct certain demonstration projects. The Commissioner may initiate experiments and demonstration projects to test ways to encourage Social Security Disability Insurance (SSDI) beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects. This demonstration authority expired on June 9, 1996.

*House bill*

Effective as of the date of enactment, the bill extends the demonstration authority for 5 years, and includes authority for demonstration projects involving applicants as well as beneficiaries.

*Senate amendment*

The Senate amendment provides for permanent demonstration authority.

*Conference agreement*

The Senate recesses to the House.

**Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings**

*Present law*

No provision.

*House bill*

The bill would require the Commissioner of Social Security to conduct a demonstration project under which payments to Social Security disability insurance (SSDI) beneficiaries would be reduced \$1 for every \$2 of beneficiary earnings. The Commissioner would be required to annually report to the Congress on the progress of this demonstration project.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Studies and Reports**

*Present law*

No provision.

*House bill*

1. GAO Report of Existing Disability-Related Employment Incentives

The bill would direct the General Accounting Office (GAO) to assess the value of existing tax credits and disability-related employment initiatives under the Americans with Disabilities Act and other Federal laws. The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

2. GAO Report of Existing Coordination of the DI and SSI Programs as They Relate to Individuals Entering or Leaving Concurrent Entitlement

The bill would direct the General Accounting Office (GAO) to evaluate the coordination under current law of work incentives for individuals eligible for both Social Security disability insurance (SSDI) and Supplemental Security Income (SSI). The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

3. GAO Report on the Impact of the Substantial Gainful Activity Limit on Return to Work

The bill would direct the General Accounting Office (GAO) to examine substantial gainful activity limit as a disincentive for return to work. The report is to be submitted within 2 years to the Senate Committee on Finance and the House Committee on Ways & Means.

#### 4. Report on Disregards Under the DI and SSI Programs

The bill would direct the Commissioner of Social Security to identify all income disregards under the Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) programs; to specify the most recent statutory or regulatory change in each disregard; the current value of any disregard if the disregard had been indexed for inflation; recommend any further changes; and to report certain additional information and recommendations on disregards related to grants, scholarships, or fellowships used in attending any educational institution. The report is to be submitted within 90 days to the Senate Committee on Finance and the House Committee on Ways & Means.

#### 5. GAO Report on SSA's Demonstration Authority

The bill would direct GAO to assess the Social Security Administration's (SSA) efforts to conduct disability demonstrations and to make a recommendation as to whether SSA's disability demonstration authority should be made permanent. The report is to be submitted within 5 years to the Senate Committee on Finance and the House Committee on Ways and Means.

##### *Senate amendment*

Similar provision, but does not include the GAO report on SSA's demonstration authority.

##### *Conference agreement*

The Senate recedes to the House.

### **Title IV. Miscellaneous and Technical Amendments**

#### **Technical Amendments Relating to Drug Addicts and Alcoholics**

##### *Present law*

Public Law 104-121 included amendments to the SSDI and SSI disability programs providing that no individual could be considered to be disabled if alcoholism or drug addiction would otherwise be a contributing factor material to the determination of disability. The effective date for all new and pending applications was the date of enactment (March 29, 1996). For those whose claim had been finally adjudicated before the date of enactment, the amendments would apply commencing with benefits for months beginning on or after January 1, 1997. Individuals receiving benefits due to drug addiction or alcoholism can reapply for benefits based on another impairment. If the individual applied within 120 days after the date of enactment, the Commissioner is required to complete the entitlement redetermination by January 1, 1997.

Public Law 104-121 provided for the appointment of representative payees for recipients allowed benefits due to another impairment who also have drug addiction or alcoholism conditions, and the referral of those individuals for treatment.

*House bill*

The bill clarifies that the meaning of the term "final adjudication" includes a pending request for administrative or judicial review or a pending readjudication pursuant to class action or court remand. The bill also clarifies that if the Commissioner does not perform the entitlement redetermination before January 1, 1997, that entitlement redetermination must be performed in lieu of a continuing disability review.

The provision also corrects an anomaly that currently excludes all those allowed benefits (due to another impairment) before March 29, 1996, and redetermined before July 1, 1996, from the requirement that a representative payee be appointed and that the beneficiary be referred for treatment.

The amendments are effective as though they had been included in the enactment of Section 105 of Public Law 104-121 on March 29, 1996.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Treatment of Prisoners****1. Implementation of Prohibition Against Payment of Title II Benefits to Prisoners***Present law*

Current law prohibits prisoners from receiving Old Age, Survivors and Disability (OASDI) benefits while incarcerated if they are convicted of any crime punishable by imprisonment of more than 1 year. Federal, State, county or local prisons are required to make available, upon written request, the name and Social Security account number of any individual so convicted who is confined in a penal institution or correctional facility.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly referred to as the welfare reform law, requires the Commissioner to make agreements with any interested State or local institution to provide monthly the names, Social Security account numbers, confinement dates, dates of birth, and other identifying information of residents who are SSI recipients. The Commissioner is required to pay the institution \$400 for each SSI recipient who becomes ineligible as a result if the information is provided within 30 days of incarceration, and \$200 if the information is furnished after 30 days but within 90 days. P.L. 104-193 requires the Commissioner to study the desirability, feasibility, and cost of establishing a system for courts to directly furnish SSA with information regarding court orders affecting SSI recipients, and requiring that State and local jails, prisons, and other institutions that enter into contracts with the Commissioner to furnish the information by means of an electronic or similar data exchange system.

The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

*House bill*

The House bill amends prisoner provisions in the welfare reform law to include recipients of OASDI benefits in the prisoner reporting system.

The bill requires the Commissioner to enter into an agreement with any interested State or local correctional institution to provide monthly the names, Social Security account numbers, confinement dates, dates of birth, and other identifying information regarding prisoners who receive OASDI benefits. Certain requirements for computer matching agreements would not apply. For each eligible individual who becomes ineligible as a result, the Commissioner would pay the institution an amount up to \$400 if the information is provided within 30 days of incarceration, and up to \$200 if provided after 30 days but within 90 days.

Payments to correctional institutions would be reduced by 50 percent for multiple reports on the same individual who receives both SSI and OASDI benefits. Payments made to the correctional institution would be made from OASI or DI Trust Funds, as appropriate.

The Commissioner is required to provide on a reimbursable basis information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

These amendments are effective for prisoners whose confinement begins on or after the first day of the fourth month after the month of enactment.

*Senate amendment*

Similar provision, except the Senate amendment:

Authorizes, rather than requires, the Commissioner to provide information obtained under this provision to be shared with other Federal and federally-assisted agencies;

Limits the uses of this information to "eligibility purposes" not including "other administrative purposes" as provided in the House bill; and

Does not include conforming amendments.

*Conference agreement*

The Senate recedes to the House.

2. Elimination of Title II Requirement That Confinement Stem From Crime Punishable by Imprisonment For More Than 1 Year

*Present law*

The Social Security Act bars payment of OASDI benefits to prisoners convicted of any crime punishable by imprisonment of more than one year and to those who are institutionalized because they are found guilty but insane. In addition, the law stipulates



that no monthly benefits shall be paid to any person for any month during which the person is an inmate.

*House bill*

This House bill broadens the prohibition of OASDI benefits to prisoners to be identical to those that apply to SSI benefits. In addition, it replaces "an offense punishable by imprisonment for more than 1 year" with "a criminal offense," and includes benefits payable to persons confined to: (1) a penal institution; or (2) other institution if found guilty but insane, regardless of the total duration of the confinement. An exception would be made for prisoners incarcerated for less than 30 days. The provision is effective for prisoners whose confinement begins on or after the first day of the fourth month after the month of enactment.

*Senate amendment*

Similar provision, except restrictions would apply during months throughout which the criminal was incarcerated, rather than in any month during which the criminal was incarcerated as in the House bill. In addition, does not exempt prisoners convicted of crimes punishable by imprisonment of less 30 days.

*Conference agreement*

The Senate recedes to the House.

3. Conforming Title XVI Amendments

*Present law*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required the Commissioner of Social Security to enter into an agreement with any interested State or local institution (defined as a jail, prison, other correctional facility, or institution where the individual is confined due to a court order) under which the institution shall provide monthly the names, Social Security numbers, dates of birth, confinement dates, and other identifying information of prisoners. The Commissioner must pay to the institution for each eligible individual who becomes ineligible for SSI \$400 if the information is provided within 30 days of the individual's becoming an inmate. The payment is \$200 if the information is furnished after 30 days but within 90 days.

*House bill*

The amendment is designed to clarify the provision in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, in cases in which an inmate receives benefits under both the SSI and Social Security programs, payments to correctional facilities would be restricted to \$400 or \$200, depending on when the report is furnished. The amendment also expands the categories of institutions eligible to report incarceration of prisoners. This provision is effective as of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on August 22, 1996.

*Senate amendment*

Similar provision, but limits the uses of this information to "eligibility purposes" not including "other administrative purposes" as provided in the House bill.

*Conference agreement*

The Senate recedes to the House.

**4. Continued Denial of Benefits to Sex Offenders Remaining Confined to Public Institutions Upon Completion of Prison Terms**

*Present Law*

No provision.

*House bill*

The bill prohibits OASDI payments to sex offenders who, on completion of a prison term, remain confined in a public institution pursuant to a court finding that they continue to be sexually dangerous to others. The provision applies to benefits for months ending after the date of enactment.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Revocation by Members of the Clergy of Exemption From Social Security Coverage**

*Present law*

Practicing members of the clergy are automatically covered by Social Security as self-employed workers unless they file for an exemption from Social Security coverage within a period ending with the due date of the tax return for the second taxable year (not necessarily consecutive) in which they begin performing their ministerial services. Members of the clergy seeking the exemption must file statements with their church, order, or licensing or ordaining body stating their opposition to the acceptance of Social Security benefits on religious principles. If elected, this exemption is irrevocable.

*House bill*

The House bill provides a 2-year "open season," beginning January 1, 2000, for members of the clergy who want to revoke their exemption from Social Security. This decision to join Social Security would be irrevocable. A member of the clergy choosing such coverage would become subject to self-employment taxes and his or her subsequent earnings would be credited for Social Security (and Medicare) benefit purposes. The provision is effective January 1, 2000, for a period of 2 years.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Additional Technical Amendment Relating to Cooperative Research or Demonstration Projects Under Titles II and XVI**

*Present law*

Current law authorizes Title XVI funding for making grants to States and public and other organizations for paying part of the cost of cooperative research or demonstration projects.

*House bill*

The provision clarifies current law to include agreements or grants concerning Title II of the Social Security Act and is effective as of August 15, 1994.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Authorization for States to Permit Annual Wage Reports**

*Present law*

The Social Security Domestic Employment Reform Act of 1994 (P.L. 103-387) changed certain Social Security and Medicare tax rules. Specifically, the Act provided that domestic service employers (that is, individuals employing maids, gardeners, babysitters, and the like) would no longer owe taxes for any domestic employee who earned less than \$1,000 per year from the employer. In addition, the Act simplified certain reporting requirements. Domestic employers were no longer required to file quarterly returns regarding Social Security and Medicare taxes, nor the annual Federal Unemployment Tax Act (FUTA) return. Instead, all Federal reporting was consolidated on an annual Schedule H filed at the same time as the employer's personal income tax return.

*House bill*

The provision allows States the option of permitting domestic service employers to file annual rather than quarterly wage reports pursuant to section 1137 of the Social Security Act, which provides for an income and eligibility verification system (IEVS) for certain public benefits. This provision is effective as of the date of enactment.

*Senate amendment*

Identical provision.

*Conference agreement*

The conference agreement follows the House bill and the Senate amendment.

**Assessment on Attorneys Who Receive Fees Via the Social Security Administration***Present law*

The Commissioner of Social Security, using one of two processes, authorizes the fee that may be charged by an attorney or non-attorney to represent a claimant in administrative proceedings for Social Security, SSI, or Part B Black Lung benefits.

Under the fee agreement process, the representative and claimant submit a signed agreement reflecting the amount of the fee before the date of a favorable decision, and the agreement usually will be approved by the Commissioner if the specified fee does not exceed the lesser of 25 percent of the claimant's past-due benefits or \$4,000. The Commissioner then issues a notice of the maximum fee the representative can charge based on the approved agreement.

Under the fee petition process, the representative submits an itemized list of services and fees after a decision has been issued. The Commissioner will issue a notice of the fees that are approved or disapproved after reviewing the extent and types of services performed, the complexity of the case, and the amount of time spent by the representative on the case.

The Social Security Act and Social Security regulations provide that a representative may not charge or collect, directly or indirectly, a fee in any amount not approved by the Social Security Administration (SSA) or a Federal court. The statute and regulations further provide that SSA may suspend or disqualify from further practice before SSA a representative who breaks the rules governing representatives.

Under programs authorized under title II of the Social Security Act, in favorable decisions in which the claimant is represented by an attorney, the Commissioner must withhold and certify direct payment to the attorney, out of the claimant's past-due benefits, an amount equal to the smaller of: (1) 25 percent of the past-due benefits, or (2) the fee authorized by the Commissioner under either the fee petition or fee agreement process. This payment provision does not apply to SSI benefits and an attorney must look to the SSI beneficiary for payment of the fee. In addition, it does not apply to fees requested by non-attorney representatives.

The costs associated with approving, determining, processing, withholding, and certifying direct payment of attorney fees are currently absorbed in SSA's administrative budget.

*House bill*

The bill requires the Commissioner of Social Security to recover from attorneys' fees the cost of administering the process used to certify payment of attorneys fees. The assessment would be withheld from the amount payable to the attorney and the attorney would be prohibited from recovering the assessment from the beneficiary. The provision specifies an assessment of 6.3 percent of the

approved attorney's fee for FY2000. After FY2000, the percentage would be adjusted by the Commissioner as necessary to achieve full recovery of the costs associated with certifying fees to attorneys.

The provision is applicable to fees required to be certified for payment after December 31, 1999, or the last day of the first month beginning after the month of enactment, whichever is later.

*Senate amendment*

No provision.

*Conference agreement*

The conference agreement follows the House bill with the modification that, for calendar years after 2000, the assessment would be set at a rate to achieve full recovery of the costs of determining, processing, withholding, and distributing payment of fees to attorneys, but shall not exceed 6.3 percent of the attorney's fee. The Conferees expect that the Commissioner of Social Security will take into account in determining the cost to the Social Security Administration the processing, withholding, and distributing of payments of fees to attorneys. The agreement contemplates ongoing Congressional oversight of the attorney fee assessment process through hearings and requires a study by the General Accounting Office (GAO) to examine the costs of administering the attorney fee provisions with specific estimates of the costs of processing, withholding, and distributing of payment of fees. GAO would also explore the feasibility and advisability of a fixed fee as opposed to an assessment based on a percentage of the attorney's fee and would determine whether the assessment impairs access to representation for applicants. GAO would be required to make recommendations regarding efficiencies that the Commissioner could implement to reduce the cost of determining and certifying fees, the feasibility of linking the collection of the assessment to the timeliness of the payment of fees to attorneys, and the advisability of extending attorney fee disbursement to the Supplemental Security Income program. The agreement also eliminates the requirement that the Commissioner may not certify a fee before the end of the 15-day waiting period, but does not affect any beneficiary's right of appeal.

The authority is provided to the SSA to decrease the user fee assessment, and accordingly it should be decreased to take into account any administrative savings associated with technological improvements or administrative efficiencies implemented by the SSA or if the GAO finds that actual administrative expenses are less than reported by the SSA. The SSA should devote special attention to GAO recommendations related to program improvements or administrative efficiencies.

In addition, the Congress and the Committees of jurisdiction should reconsider the assessment promptly if the GAO finds that such a fee in any way impairs or impacts beneficiaries' ability to obtain and secure legal representation.

## **Prevention of Fraud and Abuse Associated with Certain Payments Under the Medicaid Program**

### *Present law*

Under the Individuals with Disabilities Education Act (IDEA), public schools must provide children with disabilities with a free and appropriate public education in the least restrictive educational setting, including special education and health-related services according to their individualized education program (IEP). In order to assist schools in meeting this obligation, under certain circumstances States may turn to Medicaid as a payer for health-related services such as occupational therapy, speech therapy, and physical therapy. Under certain conditions, school districts may directly bill their State Medicaid program for health-related services provided to disabled children enrolled in Medicaid. In addition, a school district may utilize a community-based organization to provide health-related services to disabled children enrolled in Medicaid.

In May of 1999, the Health Care Financing Administration (HCFA) clarified federal policies with respect to reimbursement for school-based health services under Medicaid in three areas: (1) bundled rates for medical services provided to Medicaid-eligible children in schools; (2) Federal matching payments for school health-related transportation services; and (3) school health-related administrative activities.

### *House bill*

The bill stipulates that Medicaid payments for school-based services and related administrative costs are not to be made unless certain conditions are met. First, individual items and services may not be bundled unless payment is made under a methodology approved by the Secretary of Health and Human Services (HHS). Similarly, fee-for-service payment for individual items and services and administrative expenses is permitted only when payment does not exceed amounts paid to other entities for the same items, services, or administrative expenses, or is made in accordance with an alternative arrangement approved by the Secretary. This provision also codifies HCFA's policies on transportation services in effect as of May 1999. Finally, the provision delineates specific conditions under which payments for Medicaid covered items, services and administrative expenses can be made when a public agency such as a school district contracts with an entity to conduct claims processing functions.

The bill requires coordination between states, managed care entities and schools related to provision of and payment for Medicaid services provided in school settings. The provision would ensure that local school agencies are able to recoup an appropriate amount of federal financial match when they make expenditures for services for these Medicaid eligible children. Finally, the provision specifies that the Administrator of HCFA, in consultation with State Medicaid and education agencies and local school systems, will develop and implement a uniform methodology for administrative claims made by schools.

*Senate amendment*

No provision.

*Conference agreement*

The House recedes to the Senate.

**Extension of Authority of State Medicaid Fraud Control Units**

*Present law*

Medicaid Fraud Control Units established by State governments as entities separate from the State's Medicaid agency are authorized to investigate and refer for prosecution Medicaid fraud as well as patient abuse in facilities that participate in the Medicaid program.

*House bill*

The bill permits State Medicaid Fraud Control Units to investigate fraud related to any Federal health care program, subject to the approval of the appropriate Inspector General, if the suspected fraud is related to Medicaid fraud. Funds that are recovered would be returned to the relevant Federal health care program or the Medicaid program. Fraud control units would be permitted to investigate patient abuse in non-Medicaid residential health care facilities.

*Senate amendment*

No provision.

*Conference agreement*

The Senate recedes to the House.

**Climate Database Modernization**

*Present law*

No provision.

*House bill*

No provision.

*Senate amendment*

No provision.

*Conference agreement*

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NIH Image World Contract #263-96-D-0323 and Task Order #56-DKNE-9-98303 which were awarded as a result of fair and open competition conducted in response to NOAA's solicitation IW SOW 1082.

### **Special Allowance Adjustment for Student Loans**

#### *Present law*

Under the Higher Education Act of 1965, the special allowance paid to lenders for participation in the Federal Family Education Loan Program is pegged to the rate for 91-day Treasury bills.

#### *House bill*

The bill changes the index for the special allowance from 91-day Treasury bills to that for 3-month commercial paper and would be applicable for payment with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

#### *Senate amendment*

No provision.

#### *Conference agreement*

The Senate recedes to the House. In receding to the House on the provision, the conferees wish to note that the Higher Education Act reauthorization (P.L. 105-244) required the establishment of a study group to design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of Title IV loans. Not fewer than three different mechanisms were to be identified and evaluated by this group which was to report to the Congress no later than May 15, 2001. The conferees wish to note that the Chairman and Ranking Member of the Committee on Education and the Workforce and the Chairman and Ranking Member of the House Subcommittee on Postsecondary Education, Training and Life Long Learning have endorsed the change to the lender yield calculation on student loans contained in the bill. The proposal would change lender yields from January 1, 2000 through June 30, 2003 at which time the House Education and the Workforce Committee and the Senate Health, Education, Labor, and Pension Committee can appropriately review this item during the consideration of the Higher Education Act reauthorization.

### **Schedule for Payments under SSI State Supplementation Agreements**

#### *Present law*

States may supplement the federal Supplemental Security Income (SSI) payment. The Social Security Administration (SSA) administers this state supplement payment for 26 States. Under current regulations, States must reimburse SSA within 5 business days after the monthly supplement payment has been made by SSA.

#### *House bill*

No provision.

#### *Senate amendment*

No provision.



*Conference agreement*

The conference agreement would change the date for remitting reimbursement by the States to no later than the business day preceding the date SSA pays the monthly benefit. For the payment for the last month of the State's fiscal year, States shall remit the reimbursement by the fifth business day following the date SSA pays the monthly benefit. The agreement also provides for a penalty of 5 percent of the payment and fees due if the payment is received after the specified dates. This provision is effective for monthly benefits paid for months after September 2009 (October 2009 for States with fiscal years that coincide with the Federal fiscal year).

**Bonus Commodities related to the National School Lunch Act***Present law*

In the School Lunch program, schools are entitled to federal food commodity assistance for each meal they serve. Commodity assistance must equal a specific amount per meal, about 15 cents a meal in the 1999–2000 school year. In addition, when all school lunch program aid (cash and commodities) are added together, the value of commodities purchased to meet the per-meal (15-cent) entitlement—so-called entitlement commodities—must equal 12 percent of the total cash and commodity aid provided. If not, the Agriculture Department is required to buy additional commodities to meet the 12 percent requirement.

The Agriculture Department appropriations laws for fiscal years 1999 and 2000 changed this 12 percent rule temporarily. They require that any commodities acquired by the Agriculture Department for farm support reasons, and then donated to schools in the school lunch program (so-called bonus commodities), be counted when judging whether the 12 percent requirement has been met.

*House bill*

No provision.

*Senate amendment*

No provision.

*Conference agreement*

The conference agreement would apply the provisions incorporated in the Agriculture Department appropriations laws for fiscal years 1999 and 2000 to fiscal years 2001 through 2009.

**Simplification of Foster Child Definition under Earned Income Credit***Present law*

For purposes of the earned income credit ("EIC"), qualifying children may include foster children who reside with the taxpayer for a full year, if the taxpayer cares for the foster children as the taxpayer's own children. (Code sec. 32(c)(3)(B)(iii)). All EIC qualifying children (including foster children) must either be under the age of 19 (24 if a full-time student) or permanently and totally dis-

abled. There is no requirement that the foster child either be (1) placed in the household by a foster care agency or (2) a relative of the taxpayer.

*House bill*

No provision.

*Senate amendment*

No provision.

*Conference agreement*

For purposes of the EIC, a foster child is defined as a child who (1) is cared for by the taxpayer as if he or she were the taxpayer's own child, (2) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year, and (3) either is the taxpayer's brother, sister, stepbrother, stepsister, or descendant (including an adopted child) of any such relative, or was placed in the taxpayer's home by an agency of a State or one of its political subdivisions or by a tax-exempt child placement agency licensed by a State.

**Delay of Effective Date of Organ Procurement and Transplantation Network Final Rule**

*Present law*

No provision.

*House bill*

No provision.

*Senate amendment*

No provision.

*Conference agreement*

The final rule entitled "Organ Procurement and Transplantation Network", promulgated by the Secretary of Health and Human Services on April 2, 1998, together with the amendments to such rules promulgated on October 20, 1999 shall not become effective before the expiration of the 90-day period beginning on the date of enactment of this Act.

**LEGISLATIVE BACKGROUND**

H.R. 1180, the "Ticket to Work and Work Incentives Improvement Act of 1999," was passed by the House on October 19, 1999. In the Senate, the provisions of S. 331 (the "Work Incentives Improvement Act of 1999"), with an amendment, were substituted, and the bill, as amended, passed the Senate on October 21, 1999. The conference agreement to H.R. 1180 contains provisions to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities. Provisions of H.R. 2923 ("Extension of Expiring Provisions"),<sup>1</sup> as approved by

<sup>1</sup>The provisions of H.R. 2923 were reported by the House Committee on Ways and Means on September 28, 1999 (H. Rept. 106-344).

the Ways and Means Committee on September 28, 1999, and S. 1792, (the "Tax Relief Extension Act of 1999"),<sup>2</sup> as passed by the Senate on October 29, 1999, are included in the conference agreement to H.R. 1180.

## **I. EXTENSION OF EXPIRED AND EXPIRING TAX PROVISIONS**

### **A. Extend Minimum Tax Relief for Individuals (secs. 24 and 26 of the Code)**

#### *Present Law*

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). Except for taxable years beginning during 1998, these credits are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. For taxable years beginning during 1998, these credits are allowed to the extent of the full amount of the individual's regular tax (without regard to the tentative minimum tax).

An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first \$175,000 (\$87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income ("AMTI") in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) \$45,000 in the case of married individuals filing a joint return and surviving spouses; (2) \$33,750 in the case of other unmarried individuals; and (3) \$22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) \$150,000 in the case of married individuals filing a joint return and surviving spouses, (2) \$112,500 in the case of other unmarried individuals, and (3) \$75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

For families with three or more qualifying children, a refundable child credit is provided, up to the amount by which the liability for social security taxes exceeds the amount of the earned income credit (sec. 24(d)). For taxable years beginning after 1998, the refundable child credit is reduced by the amount of the individual's minimum tax liability (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability).

<sup>2</sup>The provisions of S. 1792 were reported by the Senate Committee on Finance on October 26, 1999 (S. Rept. 106-201).

### *House Bill*

No provision. H.R. 2923, as approved by the Committee on Ways and Means, makes permanent the provision that allows an individual to offset the entire regular tax liability (without regard to the minimum tax) by the personal nonrefundable credits.

H.R. 2923 repeals the present-law provision that reduces the refundable child credit by the amount of an individual's minimum tax.

*Effective date.*—The provisions of H.R. 2923 are effective for taxable years beginning after December 31, 1998.

### *Senate Amendment*

No provision. S. 1792, as passed by the Senate, contains the same provisions as H.R. 2923, except that the provisions apply only to taxable years beginning in 1999 and 2000.

### *Conference Agreement*

The conference agreement extends the provision that allows the nonrefundable credits to offset the individual's regular tax liability in full (as opposed to only the amount by which the regular tax exceeds the tentative minimum tax) to taxable years beginning in 1999. For taxable years beginning in 2000 and 2001 the personal nonrefundable credits may offset both the regular tax and the minimum tax.<sup>3</sup>

Under the conference agreement, the refundable child credit will not be reduced by the amount of an individual's minimum tax in taxable years beginning in 1999, 2000, and 2001.

### **B. Extend Research and Experimentation Tax Credit and Increase Rates for the Alternative Incremental Research Credit (sec. 41 of the Code)**

#### *Present Law*

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 1999.

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers

<sup>3</sup>The foreign tax credit will be allowed before the personal credits in computing the regular tax for these years.

(so-called "start-up firms") are assigned a fixed-base percentage of 3 percent. Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation.

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made for any taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

#### ***House Bill***

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

In addition, the provision increases the credit rate applicable under the alternative incremental research credit one percentage point per step, that is from 1.65 percent to 2.65 percent when a taxpayer's current-year research expenses exceed a base amount of 1 percent but do not exceed a base amount of 1.5 percent; from 2.2 percent to 3.2 percent when a taxpayer's current-year research expenses exceed a base amount of 1.5 percent but do not exceed a base amount of 2 percent; and from 2.75 percent to 3.75 percent when a taxpayer's current-year research expenses exceed a base amount of 2 percent.

Research tax credits that are attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000. On or after October 1, 2000, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that is allowed by the Code.

*Effective date.*—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through June 30, 2004. The increase in the credit

rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999. Estimated tax penalties will be waived for the period before July 1, 1999, with respect to any underpayment that is created by reason of the rule allocating research credits to a period based on the ratio of months in such period to the months in the taxable year.

#### *Senate Amendment*

No provision. However, S. 1792, as passed by the Senate, extends the research tax credit for 18 months—i.e., generally, for the period July 1, 1999, through December 31, 2000.

In addition, S. 1792 increases the credit rate applicable under the alternative incremental research credit one percentage point per step, that is, identical to H.R. 2923.

Lastly, S. 1792 expands the definition of qualified research to include research undertaken in Puerto Rico and possessions of the United States. However, any employee compensation or other expense claimed for computation of the research credit may not also be claimed for the purpose of any credit allowable under sec. 30A ("Puerto Rico economic activity credit") or under sec. 936 ("Puerto Rico and possession tax credit").

*Effective date.*—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through December 31, 2000. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999. The expansion of qualified research to include research undertaken in any possession of the United States is effective for qualified research expenditures paid or incurred beginning after June 30, 1999.

#### *Conference Agreement*

The conference agreement includes the provision of H.R. 2923 by extending the research credit through June 30, 2004.

In addition, the conference agreement follows H.R. 2923 and S. 1792 by increasing the credit rate applicable under the alternative incremental research credit by one percentage point per step.

The conference agreement follows S. 1792 by expanding the definition of qualified research to include research undertaken in Puerto Rico and possessions of the United States.

Research tax credits that are attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000. On or after October 1, 2000, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. The prohibition on taking credits attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, into account as payments prior to October 1, 2000, extends to the determination of any penalty or interest under the Code. For example, the amount of tax required to be shown on a return that is due prior to October 1, 2000 (excluding extensions) may not be reduced by any such credits. In ad-

dition, the conferees clarify that deductions under section 174 are reduced by credits allowable under section 41 as under present law, notwithstanding the delay in taking the credit into account created by this provision.

Similarly, research tax credits that are attributable to the period beginning October 1, 2000, and ending on September 30, 2001, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2001. On or after October 1, 2001, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. Likewise, the prohibition on taking credits attributable to the period beginning on October 1, 2000, and ending on September 30, 2001, into account as payments prior to October 1, 2001, extends to the determination of any penalty or interest under the Code.

In extending the research credit, the conferees are concerned that the definition of qualified research be administered in a manner that is consistent with the intent Congress has expressed in enacting and extending the research credit. The conferees urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the "common knowledge" standard. The conferees further note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive in promulgating regulations in connection with what constitutes "internal use" with regard to software expenditures. The conferees also observe that software research, that otherwise satisfies the requirements of section 41, which is undertaken to support the provision of a service, should not be deemed "internal use" solely because the business component involves the provision of a service.

The conferees wish to reaffirm that qualified research is research undertaken for the purpose of discovering new information which is technological in nature. For purposes of applying this definition, new information is information that is new to the taxpayer, is not freely available to the general public, and otherwise satisfies the requirements of section 41. Employing existing technologies in a particular field or relying on existing principles of engineering or science is qualified research, if such activities are otherwise undertaken for purposes of discovering information and satisfy the other requirements under section 41.

The conferees also are concerned about unnecessary and costly taxpayer record keeping burdens and reaffirm that eligibility for the credit is not intended to be contingent on meeting unreasonable record keeping requirements.

*Effective date.*—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through June 30, 2004. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999.

**C. Extend Exceptions under Subpart F for Active Financing  
Income (secs. 953 and 954 of the Code)**

*Present Law*

Under the subpart F rules, 10-percent U.S. shareholders of a controlled foreign corporation ("CFC") are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, foreign personal holding company income and insurance income. In addition, 10-percent U.S. shareholders of a CFC are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents, and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953-1(a)).

Temporary exceptions from foreign personal holding company income, foreign base company services income, and insurance income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business (so-called "active financing income"). These exceptions are applicable only for taxable years beginning in 1999.<sup>4</sup>

With respect to income derived in the active conduct of a banking, financing, or similar business, a CFC is required to be predominantly engaged in such business and to conduct substantial activity with respect to such business in order to qualify for the exceptions. In addition, certain nexus requirements apply, which provide that income derived by a CFC or a qualified business unit

<sup>4</sup>Temporary exceptions from the subpart F provisions for certain active financing income applied only for taxable years beginning in 1998. Those exceptions were extended and modified as part of the present-law provision.



("QBU") of a CFC from transactions with customers is eligible for the exceptions if, among other things, substantially all of the activities in connection with such transactions are conducted directly by the CFC or QBU in its home country, and such income is treated as earned by the CFC or QBU in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross border transactions, provided that certain requirements are met. Additional exceptions from foreign personal holding company income apply for certain income derived by a securities dealer within the meaning of section 475 and for gain from the sale of active financing assets.

In the case of insurance, in addition to a temporary exception from foreign personal holding company income for certain income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization, certain temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of a qualifying branch of a qualifying insurance company with respect to risks located within the home country of the branch, provided certain requirements are met under each of the exceptions. Further, additional temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of certain CFCs or branches with respect to risks located in a country other than the United States, provided that the requirements for these exceptions are met.

#### *House Bill*

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, extends for five years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

*Effective date.*—The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

#### *Senate Amendment*

No provision, but S. 1792, as passed by the Senate, extends for one year the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

*Effective date.*—The provision is effective only for taxable years of foreign corporations beginning in 2000, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

### *Conference Agreement*

The conference agreement includes the provision in H.R. 2923 and S. 1792, with a modification to the effective date. The provision in the conference agreement extends for two years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

The conference agreement clarifies that if the temporary exception from subpart F insurance income does not apply for a taxable year beginning after December 31, 2001, section 953(a) is to be applied to such taxable year in the same manner as it would for a taxable year beginning in 1998 (i.e., under the law in effect before amendments to section 953(a) were made in 1998).<sup>5</sup> Thus, for future periods in which the temporary exception relating to insurance income is not in effect, the same-country exception from subpart F insurance income applies as under prior law.

*Effective date.*—The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2002, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

#### **D. Extend Suspension of Net Income Limitation on Percentage Depletion from Marginal Oil and Gas Wells (sec. 613A of the Code)**

##### *Present Law*

The Code permits taxpayers to recover their investments in oil and gas wells through depletion deductions. In the case of certain properties, the deductions may be determined using the percentage depletion method. Among the limitations that apply in calculating percentage depletion deductions is a restriction that, for oil and gas properties, the amount deducted may not exceed 100 percent of the net income from that property in any year (sec. 613(a)).

Special percentage depletion rules apply to oil and gas production from "marginal" properties (sec. 613A(c)(6)). Marginal production is defined as domestic crude oil and natural gas production from stripper well property or from property substantially all of the production from which during the calendar year is heavy oil. Stripper well property is property from which the average daily production is 15 barrel equivalents or less, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on the property for the calendar year by the number of wells. Heavy oil is domestic crude oil with a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit). Under one such special rule, the 100-percent-of-net-income limitation does not apply to domestic oil and gas pro-

<sup>5</sup> For the 1998 amendments, see the Tax and Trade Relief Extension Act of 1998, Division J, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, Pub. L. No. 105-277, sec. 1005(b), 112 Stat. 2681 (1998).

duction from marginal properties during taxable years beginning after December 31, 1997, and before January 1, 2000.

***House Bill***

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, extends the present-law suspension of the 100-percent-of-net-income limitation with respect to oil and gas production from marginal wells to include taxable years beginning after December 31, 1999, and before January 1, 2005.

***Senate Amendment***

No provision, but S. 1792, as passed by the Senate, extends the present-law suspension of the 100-percent-of-net-income limitation with respect to oil and gas production from marginal wells to include taxable years beginning after December 31, 1999, and before January 1, 2001.

***Conference Agreement***

The conference agreement includes H.R. 2923 and S. 1792, with a modification providing an extension period through taxable years beginning before January 1, 2002.

**E. Extend the Work Opportunity Tax Credit (sec. 51 of the Code)**

***Present Law***

***In general***

The work opportunity tax credit ("WOTC"), which expired on June 30, 1999, was available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified wages. Generally, qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer.

The maximum credit per employee is \$2,400 (40% of the first \$6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is \$1,200 (40 percent of the first \$3,000 of qualified first-year wages).

The employer's deduction for wages is reduced by the amount of the credit.

***Targeted groups eligible for the credit***

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families (TANF) Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

**Minimum employment period**

No credit is allowed for wages paid to employees who work less than 120 hours in the first year of employment.

**Expiration date**

The credit is effective for wages paid or incurred to a qualified individual who began work for an employer before July 1, 1999.

**House Bill**

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the work opportunity tax credit for 30 months (through December 31, 2001) and clarifies the definition of first year of employment for purposes of the WOTC. H.R. 2923 also directs the Secretary of the Treasury to expedite procedures to allow taxpayers to satisfy their WOTC filing requirements (e.g., Form 8850) by electronic means.

*Effective date.*—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

**Senate Amendment**

No provision. However, S. 1792, as passed by the Senate, extends the work opportunity tax credit for 18 months (through December 31, 2000) and clarifies the definition of first year of employment for purposes of the WOTC.

*Effective date.*—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2001.

**Conference Agreement**

The conference agreement provides for a 30-month extension of the work opportunity tax credit. The conference agreement also includes the clarification of the definition of first year of employment for purposes of the WOTC that is included in H.R. 2923 and S. 1792. Finally, the conferees also direct the Secretary of the Treasury to expedite the use of electronic filing of requests for certification under the credit. They believe that participation in the program by businesses should not be discouraged by the requirement that such forms (i.e., the Form 8850) be submitted in paper form.

*Effective date.*—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

**F. Extend the Welfare-To-Work Tax Credit (sec. 51A of the Code)****Present Law**

The Code provides to employers a tax credit on the first \$20,000 of eligible wages paid to qualified long-term family assistance (AFDC or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first \$10,000 of eligible wages in the first year of employment and 50

percent of the first \$10,000 of eligible wages in the second year of employment. The maximum credit is \$8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998, and before July 1, 1999.

#### ***House Bill***

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the welfare-to-work tax credit for 30 months.

*Effective date.*—The provision extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

#### ***Senate Amendment***

No provision. However, S. 1792, as passed by the Senate, extends the welfare-to-work tax credit for 18 months.

*Effective date.*—The provision extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2001.

#### ***Conference Agreement***

The conference agreement provides for a 30-month extension of the welfare-to-work tax credit.

*Effective date.*—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

**G. Extend Exclusion for Employer-Provided Educational Assistance (sec. 127 of the Code)**

*Present Law*

Educational expenses paid by an employer for the employer's employees are generally deductible to the employer.

Employer-paid educational expenses are excludable from the gross income and wages of an employee if provided under a section 127 educational assistance plan or if the expenses qualify as a working condition fringe benefit under section 132. Section 127 provides an exclusion of \$5,250 annually for employer-provided educational assistance. The exclusion expired with respect to graduate courses June 30, 1996. With respect to undergraduate courses, the exclusion for employer-provided educational assistance expires with respect to courses beginning on or after June 1, 2000.

In order for the exclusion to apply, certain requirements must be satisfied. The educational assistance must be provided pursuant to a separate written plan of the employer. The educational assistance program must not discriminate in favor of highly compensated employees. In addition, not more than 5 percent of the amounts paid or incurred by the employer during the year for educational assistance under a qualified educational assistance plan can be provided for the class of individuals consisting of more than 5-percent owners of the employer (and their spouses and dependents).

Educational expenses that do not qualify for the section 127 exclusion may be excludable from income as a working condition fringe benefit.<sup>6</sup> In general, education qualifies as a working condition fringe benefit if the employee could have deducted the education expenses under section 162 if the employee paid for the education. In general, education expenses are deductible by an individual under section 162 if the education (1) maintains or improves a skill required in a trade or business currently engaged in by the taxpayer, or (2) meets the express requirements of the taxpayer's employer, applicable law or regulations imposed as a condition of continued employment. However, education expenses are generally not deductible if they relate to certain minimum educational requirements or to education or training that enables a taxpayer to begin working in a new trade or business.<sup>7</sup>

*House Bill*

No provision.

*Senate Amendment*

No provision. However, S. 1792 as passed by the Senate reinstates the exclusion for employer-provided educational assistance for graduate-level courses, and extends the exclusion, as applied to both undergraduate and graduate-level courses, through 2000. The provision in S. 1792 is effective with respect to undergraduate

<sup>6</sup> These rules also apply in the event that section 127 expires and is not reinstated.

<sup>7</sup> In the case of an employee, education expenses (if not reimbursed by the employer) may be claimed as an itemized deduction only if such expenses, along with other miscellaneous deductions, exceed 2 percent of the taxpayer's AGI. The 2-percent floor limitation is disregarded in determining whether an item is excludable as a working condition fringe benefit.

courses beginning after May 31, 2000, and before January 1, 2001. The provision is effective with respect to graduate-level courses beginning after December 31, 1999, and before January 1, 2001.

#### *Conference Agreement*

The conference agreement provides that the present-law exclusion for employer-provided educational assistance is extended through December 31, 2001.

*Effective date.*—The provision is effective with respect to courses beginning after May 31, 2000, and before January 1, 2002.

#### **H. Extend and Modify Tax Credit for Electricity Produced by Wind and Closed-Loop Biomass Facilities (sec. 45 of the Code)**

##### *Present Law*

An income tax credit is allowed for the production of electricity from either qualified wind energy or qualified “closed-loop” biomass facilities (sec. 45). The credit applies to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999, and to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999. The credit is allowable for production during the 10-year period after a facility is originally placed in service.

Closed-loop biomass is the use of plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste). The credit also is not available to taxpayers who use standing timber to produce electricity. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party.

##### *House Bill*

No provision.

##### *Senate Amendment*

No provision, but S. 1792, as passed by the Senate, extends the present-law tax credit for electricity produced by wind and closed-loop biomass for facilities placed in service after June 30, 1999, and before December 31, 2000. S. 1792 also modifies the tax credit to include electricity produced from poultry litter, for facilities placed in service after December 31, 1999, and before December 31, 2000. The credit further is expanded to include electricity produced from landfill gas, for electricity produced from facilities placed in service after December 31, 1999, and before December 31, 2000.

Finally, the credit is expanded to include electricity produced from certain other biomass (in addition to closed-loop biomass and poultry waste). This additional biomass is defined as solid, nonhazardous, cellulose waste material which is segregated from other waste materials and which is derived from forest resources, but not including old-growth timber. The term also includes urban sources

such as waste pallets, crates, manufacturing and construction wood waste, and tree trimmings, or agricultural sources (including grain, orchard tree crops, vineyard legumes, sugar, and other crop by-products or residues. The term does not include unsegregated municipal solid waste or paper that commonly is recycled.

In the case of both closed-loop biomass and this additional biomass, the credit applies to electricity produced after December 31, 1999, from facilities that are placed in service before January 1, 2003 (including facilities placed in service before the date of enactment of this provision), and the credit is allowed for production attributable to biomass produced at facilities that are co-fired with coal.

#### *Conference Agreement*

The conference agreement includes S. 1792, with modifications. First, the extension is limited to electricity from facilities using present-law qualified sources (wind and closed-loop biomass) and from poultry waste facilities (placed in service after December 31, 1999). Second, in the case of all three fuel sources, the extension is limited to facilities placed in service before January 1, 2002. Third, the conference agreement does not include the provisions of the Senate amendment allowing co-firing of closed-loop biomass facilities. Fourth, the conference agreement includes the provisions of the Senate amendment clarifying wind facilities eligible for the credit.

#### **I. Extend Duty-Free Treatment Under Generalized System of Preferences (GSP)**

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries (BDCs), subject to certain conditions and limitations. To qualify for GSP privileges, each beneficiary country is subject to various mandatory and discretionary eligibility criteria. Import sensitive products are ineligible for GSP. Section 505(a) of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V shall remain in effect after June 30, 1999.

#### *House Bill*

No provision.

#### *Senate Amendment*

No provision. The Senate amendment to H.R. 434, which passed the Senate on November 3, 1999, reauthorizes GSP retroactively for five years to terminate on June 30, 2004. It also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (a) of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if such entry had been made on June 30, 1999, and (b) that was made after June 30, 1999, and before the date of enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid,



upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment of this Act.

### *Conference Agreement*

The conference agreement would reauthorize the GSP program for 27 months, to expire on September 30, 2001. The proposal provides for refunds, upon request of the importer, of any duty paid between June 30, 1999 and the effective date of this Act. All entries between the effective date of this Act and September 30, 2001 would enter duty-free.

### **J. Extend Authority to Issue Qualified Zone Academy Bonds (sec. 1397E of the Code)**

#### *Present Law*

#### *Tax-exempt bonds*

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units, including the financing of public schools (sec. 103).

#### *Qualified zone academy bonds*

As an alternative to traditional tax-exempt bonds, certain States and local governments are given the authority to issue "qualified zone academy bonds." A total of \$400 million of qualified zone academy bonds is authorized to be issued in each of 1998 and 1999. The \$400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit to qualified zone academies within such State. A State may carry over any unused allocation into subsequent years.

Certain financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond (sec. 1397E). A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

"Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance

or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in one of the 31 designated empowerment zones or one of the 95 enterprise communities designated under Code section 1391, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

***House Bill***

No provision.

***Senate Amendment***

No provision.

***Conference Agreement***

The conference agreement authorizes up to \$400 million of qualified zone academy bonds to be issued in each of calendar years 2000 and 2001. Unused QZAB authority arising in 1998 and 1999 may be carried forward by the State or local government entity to which it is (or was) allocated for up to three years after the year in which the authority originally arose. Unused QZAB authority arising in 2000 and 2001 may be carried forward for two years after the year in which it arises. Each issuer is deemed to use the oldest QZAB authority which has been allocated to it first when new bonds are issued.

*Effective date.*—The provision is effective on the date of enactment.

**K. Extend the Tax Credit for First-Time D.C. Homebuyers  
(sec. 1400C of the Code)**

***Present Law***

***In general***

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to \$5,000 of the amount of the purchase price. The \$5,000 maximum credit applies both to individuals and married couples. Married individuals filing separately can claim a maximum credit of \$2,500 each. The credit phases out for individual taxpayers with adjusted gross income between \$70,000 and \$90,000 (\$110,000–\$130,000 for joint filers). For purposes of eligibility, "first-time homebuyer" means any individual if such individual did not have a present ownership interest in a principal residence in the District of Columbia in the one year period ending on the date of the purchase of the residence to which the credit applies.

**Expiration date**

The credit is scheduled to expire for residences purchased after December 31, 2000.

**House Bill**

No provision.

**Senate Amendment**

No provision.

**Conference Agreement**

The conference agreement provides for a one-year extension of the tax credit for first-time D.C. homebuyers, so that it applies to residences purchased on or before December 31, 2001.

*Effective date.*—The provision is effective for residences purchased after December 31, 2000 and before January 1, 2002.

**L. Extend Expensing of Environmental Remediation Expenditures (sec. 198 of the Code)**

**Present Law**

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance (so-called "brownfields"). Targeted areas are defined as: (1) empowerment zones and enterprise communities as designated under present law; (2) sites announced before February, 1997, as being subject to one of the 76 Environmental Protection Agency ("EPA") Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures are those paid or incurred before January 1, 2001.

**House Bill**

No provision.

### *Senate Amendment*

No provision. However, S. 1792, as passed by the Senate, eliminates the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency, but not those sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

*Effective date.*—The provision to expand the class of eligible sites is effective for expenditures paid or incurred after December 31, 1999.

### *Conference Agreement*

The conference agreement extends present-law expiration date for sec. 198 to include those expenditures paid or incurred before January 1, 2002.

*Effective date.*—The provision to extend the expiration date is effective upon the date of enactment.

### **M. Temporary Increase in Amount of Rum Excise Tax that is Covered Over to Puerto Rico and the U.S. Virgin Islands (sec. 7652 of the Code)**

#### *Present Law*

A \$13.50 per proof gallon<sup>8</sup> excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States. The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Internal Revenue Code provides for coverover (payment) of \$10.50 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands. During the five-year period ending on September 30, 1998, the amount covered over was \$11.30 per proof gallon. This temporary increase was enacted in 1993 as transitional relief accompanying a reduction in certain tax benefits for corporations operating in Puerto Rico and the Virgin Islands.

Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasuries of the two possessions for use as those possessions determine.

#### *House Bill*

No provision, but H.R. 984, as approved by the Committee on Ways and Means, increases from \$10.50 to \$13.50 per proof gallon the amount of excise taxes collected on rum brought into the United States that is covered over to Puerto Rico and the U.S. Virgin Islands. H.R. 984 further provides that \$0.50 per proof gallon of the amount covered over to Puerto Rico will be transferred to the Puerto Rico Conservation Trust, a private, non-profit section 501(c)(3) organization operating in Puerto Rico.

<sup>8</sup>A proof gallon is a liquid gallon consisting of 50 percent alcohol.

*Effective date.*—The provision is effective for excise taxes collected on rum imported or brought into the United States after June 30, 1999 and before October 1, 1999.

#### **Senate Amendment**

No provision, but H.R. 434, as passed by the Senate, is the same as the House bill.

#### **Conference Agreement**

The conference agreement reinstates the rum excise tax coverover at a rate of \$13.25 per proof gallon during the period from July 1, 1999, through December 31, 2001.

The conference agreement includes a special rule for payment of the \$2.75 per proof gallon increase in the coverover rate for Puerto Rico and the Virgin Islands. The special rule applies to payments that otherwise would be made in Fiscal Year 2000. Under this special payment rule, amounts attributable to the increase in the coverover rate that would have been transferred to Puerto Rico and the Virgin Islands after June 30, 1999 and before the date of enactment, will be paid on the date which is 15 days after the date of enactment. However, the total amount of this initial payment (aggregated for both possessions) may not exceed \$20 million.

The next payment to Puerto Rico and the Virgin Islands with respect to the \$2.75 increase in the coverover rate will be made on October 1, 2000. This payment will equal the total amount attributable to the increase that otherwise would have been transferred to Puerto Rico and the Virgin Islands before October 1, 2000 (less the payment of up to \$20 million made 15 days after the date of enactment).

Payments for the remainder of the period through December 31, 2001 will be paid as provided under the present-law rules for the \$10.50 per proof gallon coverover rate.

The special payment rule does not affect payments to Puerto Rico and the Virgin Islands with respect to the present-law \$10.50 per proof gallon coverover rate.

Finally, the conferees note that H.R. 984 and H.R. 434, described above, will be considered by the Congress next year. The conferees intend that the special payment rule for Fiscal Year 2000 will be reviewed when that legislation is considered, and that to the extent possible, the delayed payments will be accelerated, or interest on delayed amounts will be provided.

*Effective date.*—The provision is effective on July 1, 1999.

## **II. OTHER TIME-SENSITIVE PROVISIONS**

### **A. Prohibit Disclosure of APAs and APA Background Files (secs. 6103 and 6110 of the Code)**

#### ***Present Law***

#### ***Section 6103***

Under section 6103, returns and return information are confidential and cannot be disclosed unless authorized by the Internal Revenue Code.

The Code defines return information broadly. Return information includes:

A taxpayer's identity, the nature, source or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments;

Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

Any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.<sup>9</sup>

### ***Section 6110 and the Freedom of Information Act***

With certain exceptions, section 6110 makes the text of any written determination the IRS issues available for public inspection. A written determination is any ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Once the IRS makes the written determination publicly available, the background file documents associated with such written determination are available for public inspection upon written request. The Code defines "background file documents" as any written material submitted in support of the request. Background file documents also include any communications between the IRS and persons outside the IRS concerning such written determination that occur before the IRS issues the determination.

Before making them available for public inspection, section 6110 requires the IRS to delete specific categories of sensitive information from the written determination and background file documents.<sup>10</sup> It also provides judicial and administrative procedures to resolve disputes over the scope of the information the IRS will disclose. In addition, Congress has also wholly exempted certain matters from section 6110's public disclosure requirements.<sup>11</sup> Any part of a written determination or background file that is not disclosed under section 6110 constitutes "return information."<sup>12</sup>

The Freedom of Information Act (FOIA) lists categories of information that a federal agency must make available for public inspection.<sup>13</sup> It establishes a presumption that agency records are ac-

<sup>9</sup>Sec. 6103(b)(2)(A).

<sup>10</sup>Sec. 6110(c) provides for the deletion of identifying information, trade secrets, confidential commercial and financial information and other material.

<sup>11</sup>Sec. 6110(l).

<sup>12</sup>Sec. 6103(b)(2)(B) ("The term 'return information' means . . . any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110").

<sup>13</sup>Unless published promptly and offered for sale, an agency must provide for public inspection and copying: (1) final opinions as well as orders made in the adjudication of cases; (2) statements of policy and interpretations not published in the Federal Register; (3) administrative staff manuals and instructions to staff that affect a member of the public; and (4) agency records which have been or the agency expects to be, the subject of repetitive FOIA requests. 5 U.S.C. sec. 552(a)(2). An agency must also publish in the Federal Register: the organizational structure of the agency and procedures for obtaining information under the FOIA; statements describing the functions of the agency and all formal and informal procedures; rules of procedure, descriptions of forms and statements describing all papers, reports and examinations; rules of general applicability and statements of general policy; and amendments, revisions and repeals of the

Continued

cessible to the public. The FOIA, however, also provides nine exemptions from public disclosure. One of those exemptions is for matters specifically exempted from disclosure by a statute other than the FOIA if the exempting statute meets certain requirements.<sup>14</sup> Section 6103 qualifies as an exempting statute under this FOIA provision. Thus, returns and return information that section 6103 deems confidential are exempt from disclosure under the FOIA.

Section 6110 is the exclusive means for the public to view IRS written determinations.<sup>15</sup> If section 6110 covers the written determination, then the public cannot use the FOIA to obtain that determination.

### ***Advance Pricing Agreements***

The Advanced Pricing Agreement ("APA") program is an alternative dispute resolution program conducted by the IRS, which resolves international transfer pricing issues prior to the filing of the corporate tax return. Specifically, an APA is an advance agreement establishing an approved transfer pricing methodology entered into among the taxpayer, the IRS, and a foreign tax authority. The IRS and the foreign tax authority generally agree to accept the results of such approved methodology. Alternatively, an APA also may be negotiated between just the taxpayer and the IRS; such an APA establishes an approved transfer pricing methodology for U.S. tax purposes. The APA program focuses on identifying the appropriate transfer pricing methodology; it does not determine a taxpayer's tax liability. Taxpayers voluntarily participate in the program.

To resolve the transfer pricing issues, the taxpayer submits detailed and confidential financial information, business plans and projections to the IRS for consideration. Resolution involves an extensive analysis of the taxpayer's functions and risks. Since its inception in 1991, the APA program has resolved more than 180 APAs, and approximately 195 APA requests are pending.

Currently pending in the U.S. District Court for the District of Columbia are three consolidated lawsuits asserting that APAs are subject to public disclosure under either section 6110 or the FOIA.<sup>16</sup> Prior to this litigation and since the inception of the APA program, the IRS held the position that APAs were confidential return information protected from disclosure by section 6103.<sup>17</sup> On January 11, 1999, the IRS conceded that APAs are "rulings" and

foregoing. 5 U.S.C. sec. 552(a)(1). All other agency records can be sought by FOIA request; however, some records may be exempt from disclosure.

<sup>14</sup> Exemption 3 of the FOIA provides that an agency is not required to disclose matters that are: "(3) specifically exempted from disclosure by statute (other than section 552b of this title) provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld; \* \* \*"—5 U.S.C. §552(b)(3).

<sup>15</sup> Sec. 6110(m).

<sup>16</sup> *BNA v. IRS*, Nos. 96-376, 96-2820, and 96-1473 (D.D.C.). The Bureau of National Affairs, Inc. (BNA) publishes matters of interest for use by its subscribers. BNA contends that APAs are not return information as they are prospective in application. Thus at the time they are entered into they do not relate to "the determination of the existence, or possible existence, of liability or amount thereof \* \* \*"

<sup>17</sup> The IRS contended that information received or generated as part of the APA process pertains to a taxpayer's liability and therefore was return information as defined in sec. 6103(b)(2)(A). Thus, the information was subject to section 6103's restrictions on the dissemination of returns and return information. Rev. Proc. 91-22, sec. 11, 1991-1 C.B. 526, 534 and Rev. Proc. 96-53, sec. 12, 1996-2 C.B. 375, 386.

therefore are "written determinations" for purposes of section 6110.<sup>18</sup> Although the court has not yet issued a ruling in the case, the IRS announced its plan to publicly release both existing and future APAs. The IRS then transmitted existing APAs to the respective taxpayers with proposed deletions. It has received comments from some of the affected taxpayers. Where appropriate, foreign tax authorities have also received copies of the relevant APAs for comment on the proposed deletions. No APAs have yet been released to the public.

Some taxpayers assert that the IRS erred in adopting the position that APAs are subject to section 6110 public disclosure. Several have sought to participate as amici in the lawsuit to block the release of APAs. They are concerned that release under section 6110 could expose them to expensive litigation to defend the deletion of the confidential information from their APAs. They are also concerned that the section 6110 procedures are insufficient to protect the confidentiality of their trade secrets and other financial and commercial information.

#### ***House Bill***

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, amends section 6103 to provide that APAs and related background information are confidential return information under section 6103. Related background information is meant to include: the request for an APA, any material submitted in support of the request, and any communication (written or otherwise) prepared or received by the Secretary in connection with an APA, regardless of when such communication is prepared or received. Protection is not limited to agreements actually executed; it includes material received and generated in the APA process that does not result in an executed agreement.

Further, APAs and related background information are not "written determinations" as that term is defined in section 6110. Therefore, the public inspection requirements of section 6110 do not apply to APAs and related background information. A document's incorporation in a background file, however, is not intended to be grounds for not disclosing an otherwise disclosable document from a source other than a background file.

H.R. 2923 requires that the Treasury Department prepare and publish an annual report on the status of APAs. The annual report is to contain the following information:

- Information about the structure, composition, and operation of the APA program office;
- A copy of each current model APA;
- Statistics regarding the amount of time to complete new and renewal APAs;
- The number of APA applications filed during such year;
- The number of APAs executed to date and for the year;
- The number of APA renewals issued to date and for the year;
- The number of pending APA requests;
- The number of pending APA renewals;

<sup>18</sup> IR 1999-05.



The number of APAs executed and pending (including renewals and renewal requests) that are unilateral, bilateral and multilateral, respectively;

The number of APAs revoked or canceled, and the number of withdrawals from the APA program, to date and for the year;

The number of finalized new APAs and renewals by industry;<sup>19</sup> and

General descriptions of:

the nature of the relationships between the related organizations, trades, or businesses covered by APAs;

the related organizations, trades, or businesses whose prices or results are tested to determine compliance with the transfer pricing methodology prescribed in the APA;

the covered transactions and the functions performed and risks assumed by the related organizations, trades or businesses involved;

methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

critical assumptions;

sources of comparables;

comparable selection criteria and the rationale used in determining such criteria;

the nature of adjustments to comparables and/or tested parties;

the nature of any range agreed to, including information such as whether no range was used and why, whether an inter-quartile range was used, or whether there was a statistical narrowing of the comparables;

adjustment mechanisms provided to rectify results that fall outside of the agreed upon APA range;

the various term lengths for APAs, including rollback years, and the number of APAs with each such term length;

the nature of documentation required; and

approaches for sharing of currency or other risks.

In addition, H.R. 2923 requires the IRS to describe, in each annual report, its efforts to ensure compliance with existing APA agreements. The first report is to cover the period January 1, 1991, through the calendar year including the date of enactment. The Treasury Department cannot include any information in the report which would have been deleted under section 6110(c) if the report were a written determination as defined in section 6110. Additionally, the report cannot include any information which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. The Secretary is expected to obtain input from taxpayers to ensure proper protection of taxpayer information and, if necessary, utilize its regulatory authority to implement appropriate processes for obtaining this input. For purposes of section 6103, the report requirement is treated as part of Title 26.

<sup>19</sup>This information was previously released in IRS Publication 3218, "IRS Report on Application and Administration of I.R.C. Section 482."

While H.R. 2923 statutorily requires an annual report, it is not intended to discourage the Treasury Department from issuing other forms of guidance, such as regulations or revenue rulings, consistent with the confidentiality provisions of the Code.

*Effective date.*—The provision is effective on the date of enactment; accordingly, no APAs, regardless of whether executed before or after enactment, or related background file documents, can be released to the public after the date of enactment. It requires the Treasury Department to publish the first annual report no later than March 30, 2000.

***Senate Amendment***

No provision.

***Conference Agreement***

The conference agreement includes H.R. 2923.

**B. Authority to Postpone Certain Tax-Related Deadlines by Reason of Year 2000 Failures**

***Present Law***

There are no specific provisions in present law that would permit the Secretary of the Treasury to postpone tax-related deadlines by reason of Year 2000 (also known as "Y2K") failures. The Secretary is, however, permitted to postpone tax-related deadlines for other reasons. For example, the Secretary may specify that certain deadlines are postponed for a period of up to 90 days in the case of a taxpayer determined to be affected by a Presidentially declared disaster. The deadlines that may be postponed are the same as are postponed by reason of service in a combat zone. The provision does not apply for purposes of determining interest on any overpayment or underpayment.

The suspension of time applies to the following acts: (1) filing any return of income, estate, or gift tax (except employment and withholding taxes); (2) payment of any income, estate, or gift tax (except employment and withholding taxes); (3) filing a petition with the Tax Court for a redetermination of deficiency, or for review of a decision rendered by the Tax Court; (4) allowance of a credit or refund of any tax; (5) filing a claim for credit or refund of any tax; (6) bringing suit upon any such claim for credit or refund; (7) assessment of any tax; (8) giving or making any notice or demand for payment of any tax, or with respect to any liability to the United States in respect of any tax; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other act required or permitted under the internal revenue laws specified in regulations prescribed under section 7508 by the Secretary.

***House Bill***

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, contains a provision permitting the Secretary to postpone, on a taxpayer-by-taxpayer basis, certain tax-related deadlines for a period of up to 90 days in the case of a taxpayer

that the Secretary determines to have been affected by an actual Y2K related failure. In order to be eligible for relief, taxpayers must have made good faith, reasonable efforts to avoid any Y2K related failures. The relief will be similar to that granted under the Presidentially declared disaster and combat zone provisions, except that employment and withholding taxes also are eligible for relief. The relief will permit the abatement of both penalties and interest.

The relief may apply to the following acts: (1) filing of any return of income, estate, or gift tax, including employment and withholding taxes; (2) payment of any income, estate, or gift tax, including employment and withholding taxes; (3) filing a petition with the Tax Court; (4) allowance of a credit or refund of any tax; (5) filing a claim for credit or refund of any tax; (6) bringing suit upon any such claim for credit or refund; (7) assessment of any tax; (8) giving or making any notice or demand for payment of any tax, or with respect to any liability to the United States in respect of any tax; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other act required or permitted under the internal revenue laws specified or prescribed by the Secretary. The provision is effective on the date of enactment.

#### ***Senate Amendment***

No provision.

#### ***Conference Agreement***

The conference agreement includes the provision in H.R. 2923.

### **C. Add Certain Vaccines Against *Streptococcus Pneumoniae* to the List of Taxable Vaccines (secs. 4131 and 4132 of the Code)**

#### ***Present Law***

A manufacturer's excise tax is imposed at the rate of 75 cents per dose (sec. 4131) on the following vaccines recommended for routine administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), and rotavirus gastroenteritis. The tax applied to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, "no fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers and physicians. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

### *House Bill*

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, adds any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines. The bill also changes an incorrect effective date enacted in Public Law 105-277 and makes certain other conforming amendments to expenditure purposes to enable certain payments to be made from the Trust Fund.

In addition, the bill directs the General Accounting Office ("GAO") to report to the House Committee on Ways and Means and the Senate Committee on Finance on the operation and management of expenditures from the Vaccine Trust Fund and to advise the Committees on the adequacy of the Vaccine Trust Fund to meet future claims under the Federal Vaccine Injury Compensation Program. The GAO is directed to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance not later than December 31, 1999.

*Effective date.*—The provision is effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children.

### *Senate Amendment*

No provision. However, S. 1792, as passed by the Senate, contains a provision identical to that of H.R. 2923 except that S. 1792 directs the GAO to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance by January 31, 2000.

*Effective date.*—The provision is effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children. The addition of conjugate streptococcus pneumoniae vaccines to the list of taxable vaccines is contingent upon the inclusion in this legislation of the modifications to Public Law 105-277.

### *Conference Agreement*

The conference agreement includes the provision of H.R. 2923 and S. 1792 in adding any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines. In addition, the conference agreement follows H.R. 2923 and S. 1792 by changing the effective date enacted in Public Law 105-277 and certain other conforming amendments to expenditure purposes to enable certain payments to be made from the Trust Fund.

The conference report follows S. 1792 by directing that the GAO report its findings to the House Committee on Ways and Means and the Senate Committee on Finance not later than January 31, 2000.

*Effective date.*—The provision is effective for vaccine sales beginning on the day after the date of enactment. No floor stocks tax is to be collected for amounts held for sale on that date. For sales on or before that date for which delivery is made after such date, the delivery date is deemed to be the sale date. The addition of con-

jugate streptococcus pneumoniae vaccines to the list of taxable vaccines is contingent upon the inclusion in this legislation of the modifications to Public Law 105-277.

**D. Delay Requirement that Registered Motor Fuels Terminals Offer Dyed Fuel as a Condition of Registration (sec. 4121 of the Code)**

*Present Law*

Excise taxes are imposed on highway motor fuels, including gasoline, diesel fuel, and kerosene, to finance the Highway Trust Fund programs. Subject to limited exceptions, these taxes are imposed on all such fuels when they are removed from registered pipeline or barge terminal facilities, with any tax-exemptions being accomplished by means of refunds to consumers of the fuel.<sup>20</sup> One such exception allows removal of diesel fuel without payment of tax if the fuel is destined for a nontaxable use (e.g., use as heating oil) and is indelibly dyed.

Terminal facilities are not permitted to receive and store non-tax-paid motor fuels unless they are registered with the Internal Revenue Service. Under present law, a prerequisite to registration is that if the terminal offers for sale diesel fuel, it must offer both dyed and undyed diesel fuel. Similarly, if the terminal offers for sale kerosene, it must offer both dyed and undyed kerosene. This "dyed-fuel mandate" was enacted in 1997, to be effective on July 1, 1998. Subsequently, the effective date was delayed until July 1, 2000.

*House Bill*

No provision.

*Senate Amendment*

No provision, but S. 1792, as passed by the Senate, delays the effective date of the dyed-fuel mandate for an additional six months, through December 31, 2000. No other changes are made to the present highway motor fuels excise tax rules.

*Conference Agreement*

The conference agreement includes S. 1792 with a modification delaying the effective date of the dyeing mandate until January 1, 2002.

**E. Provide That Federal Production Payments to Farmers Are Taxable in the Year Received**

*Present Law*

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under

<sup>20</sup> Tax is imposed before that point if the motor fuel is transferred (other than in bulk) from a refinery or if the fuel is sold to an unregistered party while still held in the refinery or bulk distribution system (e.g., in a pipeline or terminal facility).

the taxpayer's method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the "FAIR Act") provides for production flexibility contracts between certain eligible owners and producers and the Secretary of Agriculture. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government's fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.<sup>21</sup> The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year. The Emergency Farm Financial Relief Act of 1998 added section 112(d)(3) to the FAIR Act which provides that all payments for fiscal year 1999 are to be paid at such time or times during fiscal year 1999 as the recipient may specify. Thus, the one-half of the annual amount that would otherwise be required to be paid no later than September 30, 1999 can be specified for payment in calendar year 1998.

These options potentially would have resulted in the constructive receipt (and thus inclusion in income) of the payments to which they relate at the time they could have been exercised, whether or not they were in fact exercised. However, section 2012 of the Tax and Trade Relief Extension Act of 1998 provided that the time a production flexibility contract payment under the FAIR Act properly is includible in income is to be determined without regard to either option, effective for production flexibility contract payments made under the FAIR Act in taxable years ending after December 31, 1995.

#### ***House Bill***

No provision. However, the conference agreement to H.R. 2488 includes a provision to disregard any unexercised option to accelerate the receipt of any payment under a production flexibility contract which is payable under the FAIR Act, as in effect on the date of enactment of the provision, in determining the taxable year in which such payment is properly included in gross income. Options to accelerate payments that are enacted in the future are covered by this rule, providing the payment to which they relate is mandated by the FAIR Act as in effect on the date of enactment of this Act.

The provision in H.R. 2488 does not delay the inclusion of any amount in gross income beyond the taxable period in which the amount is received.

*Effective date.*—The provision in H.R. 2488 is effective on the date of enactment.

#### ***Senate Amendment***

No provision.

<sup>21</sup> This rule applies to fiscal years after 1996. For fiscal year 1996, this payment was to be made not later than 30 days after the production flexibility contract was entered into.

### *Conference Agreement*

The conference agreement includes the provision in the conference agreement to H.R. 2488.

## III. REVENUE OFFSET PROVISIONS

### A. Modification of Individual Estimated Tax Safe Harbor (sec. 6654 of the Code)

#### *Present Law*

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 90 percent of the tax shown on the current year's return or (2) 100 percent of the prior year's tax. For taxpayers with a prior year's AGI above \$150,000,<sup>22</sup> however, the rule that allows payment of 100 percent of prior year's tax is modified. Those taxpayers with AGI above \$150,000 generally must make estimated payments based on either (1) 90 percent of the tax shown on the current year's return or (2) 110 percent of the prior year's tax.

For taxpayers with a prior year's AGI above \$150,000, the prior year's tax safe harbor is modified for estimated tax payments made for taxable years through 2002. For such taxpayers making estimated tax payments based on prior year's tax, payments must be made based on 105 percent of prior year's tax for taxable years beginning in 1999, 106 percent of prior year's tax for taxable years beginning in 2000 and 2001, and 112 percent of prior year's tax for taxable years beginning in 2002.

#### *House Bill*

No provision, however H.R. 2923, as approved by the Committee on Ways and Means, provides that taxpayers with prior year's AGI above \$150,000 who make estimated tax payments based on prior year's tax must do so based on 108.5 percent of prior year's tax for estimated tax payments made for taxable year 2000.

*Effective date.*—The provision is effective for estimated payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

#### *Senate Amendment*

No provision, however, S. 1792, as passed by the Senate, provides that for taxable years taxpayers with prior year's AGI above \$150,000 who make estimated tax payments based on prior year's tax must do so based on 110.5 percent of prior year's tax for estimated tax payment made for taxable year 2000. Taxpayers with prior year's AGI above \$150,000 who made estimated tax payments based on prior year's tax must do so based on 112 percent of prior year's tax for estimated tax payments made for taxable year 2004.

*Effective date.*—The provision is effective for estimated payments made for taxable years beginning after December 31, 1999,

<sup>22</sup> \$75,000 for married taxpayers filing separately.

and before January 1, 2001 and for estimated tax payments made for taxable years beginning after December 31, 2003, and before January 1, 2005.

#### ***Conference Agreement***

The conference agreement includes the provision in H.R. 2923 and the provision in S. 1792 with modifications. Taxpayers with prior year's AGI above \$150,000 who make estimated tax payments based on prior year's tax must do so based on 108.6 percent of prior year's tax for estimated tax payments made for taxable year 2000. Taxpayers with prior year's AGI above \$150,000 who make estimated tax payments based on prior year's tax must do so based on 110 percent of prior year's tax for estimated tax payments made for taxable year 2001. The modified safe harbor percentage is not changed for estimated tax payments made for any taxable years other than 2000 and 2001.

*Effective date.*—The provision is effective for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2002.

#### **B. Clarify the Tax Treatment of Income and Losses on Derivatives (sec. 1221 of the Code)**

##### ***Present Law***

Capital gain treatment applies to gain on the sale or exchange of a capital asset. Capital assets include property other than (1) stock in trade or other types of assets includible in inventory, (2) property used in a trade or business that is real property or property subject to depreciation, (3) accounts or notes receivable acquired in the ordinary course of a trade or business, (4) certain copyrights (or similar property), and (5) U.S. government publications. Gain or loss on such assets generally is treated as ordinary, rather than capital, gain or loss. Certain other Code sections also treat gains or losses as ordinary. For example, the gains or losses of securities dealers or certain electing commodities dealers or electing traders in securities or commodities that are subject to "mark-to-market" accounting are treated as ordinary (sec. 475).

Treasury regulations (which were finalized in 1994) require ordinary character treatment for most business hedges and provide timing rules requiring that gains or losses on hedging transactions be taken into account in a manner that matches the income or loss from the hedged item or items. The regulations apply to hedges that meet a standard of "risk reduction" with respect to ordinary property held (or to be held) or certain liabilities incurred (or to be incurred) by the taxpayer and that meet certain identification and other requirements (Treas. Reg. sec. 1.1221-2).

##### ***House Bill***

No provision.

##### ***Senate Amendment***

No provision, but S. 1792, as passed by the Senate, adds three categories to the list of assets the gain or loss on which is treated



as ordinary (sec. 1221). The new categories are: (1) commodities derivative financial instruments held by commodities derivatives dealers; (2) hedging transactions; and (3) supplies of a type regularly consumed by the taxpayer in the ordinary course of a taxpayer's trade or business. In defining a hedging transaction, S. 1792 generally codifies the approach taken by the Treasury regulations, but modifies the rules. The "risk reduction" standard of the regulations is broadened to "risk management" with respect to ordinary property held (or to be held) or certain liabilities incurred (or to be incurred), and S. 1792 provides that the definition of a hedging transaction includes a transaction entered into primarily to manage such other risks as the Secretary may prescribe in regulations.

*Effective date.*—The provision in S. 1792 is effective for any instrument held, acquired or entered into, any transaction entered into, and supplies held or acquired on or after the date of enactment.

#### *Conference Agreement*

The conference agreement includes the provision in S. 1792.

#### **C. Expand Reporting of Cancellation of Indebtedness Income (sec. 6050P of the Code)**

##### *Present Law*

Under section 61(a)(12), a taxpayer's gross income includes income from the discharge of indebtedness. Section 6050P requires "applicable entities" to file information returns with the Internal Revenue Service (IRS) regarding any discharge of indebtedness of \$600 or more.

The information return must set forth the name, address, and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, the date on which the debt was discharged, and any other information that the IRS requires to be provided. The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the discharge.

"Applicable entities" include: (1) the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), the National Credit Union Administration, and any successor or subunit of any of them; (2) any financial institution (as described in sec. 581 (relating to banks) or sec. 591(a) (relating to savings institutions)); (3) any credit union; (4) any corporation that is a direct or indirect subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such entity, is subject to supervision and examination by a Federal or State agency regulating such entities; and (5) an executive, judicial, or legislative agency (as defined in 31 U.S.C. sec. 3701(a)(4)).

Failures to file correct information returns with the IRS or to furnish statements to taxpayers with respect to these discharges of indebtedness are subject to the same general penalty that is imposed with respect to failures to provide other types of information

returns. Accordingly, the penalty for failure to furnish statements to taxpayers is generally \$50 per failure, subject to a maximum of \$100,000 for any calendar year. These penalties are not applicable if the failure is due to reasonable cause and not to willful neglect.

***House Bill***

No provision.

***Senate Amendment***

No provision, but S.1792, as passed by the Senate, requires information reporting on indebtedness discharged by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).

*Effective date.*—The provision is effective with respect to discharges of indebtedness after December 31, 1999.

***Conference Agreement***

The conference agreement includes the provision in S. 1792.

**D. Limit Conversion of Character of Income From Constructive Ownership Transactions (new sec. 1260 of the Code)**

***Present Law***

The maximum individual income tax rate on ordinary income and short-term capital gain is 39.6 percent, while the maximum individual income tax rate on long-term capital gain generally is 20 percent. Long-term capital gain means gain from the sale or exchange of a capital asset held more than one year. For this purpose, gain from the termination of a right with respect to property which would be a capital asset in the hands of the taxpayer is treated as capital gain.<sup>23</sup>

A pass-thru entity (such as a partnership) generally is not subject to Federal income tax. Rather, each owner includes its share of a pass-thru entity's income, gain, loss, deduction or credit in its taxable income. Generally, the character of the item is determined at the entity level and flows through to the owners. Thus, for example, the treatment of an item of income by a partnership as ordinary income, short-term capital gain, or long-term capital gain retains its character when reported by each of the partners.

Investors may enter into forward contracts, notional principal contracts, and other similar arrangements with respect to property that provides the investor with the same or similar economic benefits as owning the property directly but with potentially different tax consequences (as to the character and timing of any gain).

***House Bill***

No provision.

<sup>23</sup> Section 1234A, as amended by the Taxpayer Relief Act of 1997.

### *Senate Amendment*

No provision, but S. 1792, as passed by the Senate, includes a provision that limits the amount of long-term capital gain a taxpayer could recognize from certain derivative contracts ("constructive ownership transactions") with respect to certain financial assets. The amount of long-term capital gain is limited to the amount of such gain the taxpayer would have recognized if the taxpayer held the financial asset directly during the term of the derivative contract. Any gain in excess of this amount is treated as ordinary income. An interest charge is imposed on the amount of gain that is treated as ordinary income. The provision does not alter the tax treatment of the long-term capital gain that is not treated as ordinary income.

A taxpayer is treated as having entered into a constructive ownership transaction if the taxpayer (1) holds a long position under a notional principal contract with respect to the financial asset, (2) enters into a forward contract to acquire the financial asset, (3) is the holder of a call option, and the grantor of a put option, with respect to a financial asset, and the options have substantially equal strike prices and substantially contemporaneous maturity dates, or (4) to the extent provided in regulations, enters into one or more transactions, or acquires one or more other positions, that have substantially the same effect as any of the transactions described. Treasury regulations, when issued, are expected to provide specific standards for determining when other types of financial transactions, like those specified in the provision, have substantially the same effect of replicating the economic benefits of direct ownership of a financial asset without a significant change in the risk-reward profile with respect to the underlying transaction.<sup>24</sup>

A "financial asset" is defined as (1) any equity interest in a pass-thru entity, and (2) to the extent provided in regulations, any debt instrument and any stock in a corporation that is not a pass-thru entity. A "pass-thru entity" refers to (1) a regulated investment company, (2) a real estate investment trust, (3) a real estate mortgage investment conduit, (4) an S corporation, (5) a partnership, (6) a trust, (7) a common trust fund, (8) a passive foreign investment company,<sup>25</sup> (9) a foreign personal holding company, and (10) a foreign investment company.

The amount of recharacterized gain is calculated as the excess of the amount of long-term capital gain the taxpayer would have had absent this provision over the "net underlying long-term capital gain" attributable to the financial asset. The net underlying long-term capital gain is the amount of net capital gain the taxpayer would have realized if it had acquired the financial asset for its fair market value on the date the constructive ownership transaction was opened and sold the financial asset on the date the transaction was closed (only taking into account gains and losses that would have resulted from a deemed ownership of the financial

<sup>24</sup>It is not expected that leverage in a constructive ownership transaction would change the risk-reward profile with respect to the underlying transaction.

<sup>25</sup>For this purpose, a passive foreign investment company includes an investment company that is also a controlled foreign corporation.

asset).<sup>26</sup> The long-term capital gains rate on the net underlying long-term capital gain is determined by reference to the individual capital gains rates in section 1(h).

*Example 1:* On January 1, 2000, Taxpayer enters into a three-year notional principal contract (a constructive ownership transaction) with a securities dealer whereby, on the settlement date, the dealer agrees to pay Taxpayer the amount of any increase in the notional value of an interest in an investment partnership (the financial asset). After three years, the value of the notional principal contract increased by \$200,000, of which \$150,000 is attributable to ordinary income and net short-term capital gain (\$50,000 is attributable to net long-term capital gains). The amount of the net underlying long-term capital gains is \$50,000, and the amount of gain that is recharacterized as ordinary income is \$150,000 (the excess of \$200,000 of long-term gain over the \$50,000 of net underlying long-term capital gain).

An interest charge is imposed on the underpayment of tax for each year that the constructive ownership transaction was open. The interest charge is the amount of interest that would be imposed under section 6601 had the recharacterized gain been included in the taxpayer's gross income during the term of the constructive ownership transaction. The recharacterized gain is treated as having accrued such that the gain in each successive year is equal to the gain in the prior year increased by a constant growth rate<sup>27</sup> during the term of the constructive ownership transaction.

*Example 2:* Same facts as in example 1, and assume the applicable Federal rate on December 31, 2002, is six percent. For purposes of calculating the interest charge, Taxpayer must allocate the \$150,000 of recharacterized ordinary income to the three year-term of the constructive ownership transaction as follows: \$47,116.47 is allocated to year 2000, \$49,943.46 is allocated to year 2001, and \$52,940.07 is allocated to year 2002.

A taxpayer is treated as holding a long position under a notional principal contract with respect to a financial asset if the person (1) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on the financial asset for a specified period, and (2) is obligated to reimburse (or provide credit) for all or substantially all of any decline in the value of the financial asset. A forward contract is a contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

If the constructive ownership transaction is closed by reason of taking delivery of the underlying financial asset, the taxpayer is treated as having sold the contract, option, or other position that is part of the transaction for its fair market value on the closing date. However, the amount of gain that is recognized as a result of having taken delivery is limited to the amount of gain that is treated as ordinary income by reason of this provision (with appropriate basis adjustments for such gain).

<sup>26</sup> A taxpayer must establish the amount of the net underlying long-term capital gain with clear and convincing evidence; otherwise, the amount is deemed to be zero. To the extent that the economic positions of the taxpayer and the counterparty do not equally offset each other, the amount of the net underlying long-term capital gain may be difficult to establish.

<sup>27</sup> The accrual rate is the applicable Federal rate on the day the transaction closed.

The provision does not apply to any constructive ownership transaction if all of the positions that are part of the transaction are marked to market under the Code or regulations. The Treasury Department is authorized to prescribe regulations as necessary to carry out the purposes of the provision, including to (1) permit taxpayers to mark to market constructive ownership transactions in lieu of the provision, and (2) exclude certain forward contracts that do not convey substantially all of the economic return with respect to a financial asset.

No inference is intended as to the proper treatment of a constructive ownership transaction entered into prior to the effective date of this provision.

*Effective date.*—The provision applies to transactions entered into on or after July 12, 1999. For this purpose, a contract, option or any other arrangement that is entered into or exercised on or after July 12, 1999, which extends or otherwise modifies the terms of a transaction entered into prior to such date is treated as a transaction entered into on or after July 12, 1999.

#### *Conference Agreement*

The conference agreement includes the provision in S. 1792 with a clarification regarding the effective date. The provision applies to transactions entered into on or after July 12, 1999. For this purpose, it is expected that a contract, option or any other arrangement that is entered into or exercised on or after July 12, 1999, which extends or otherwise modifies the terms of a transaction entered into prior to such date will be treated as a transaction entered into on or after July 12, 1999, unless a party to the transaction other than the taxpayer has, as of July 12, 1999, the exclusive right to extend the terms of the transaction, and the length of such extension does not exceed the first business day following a period of five years from the original termination date under the transaction.

#### **E. Treatment of Excess Pension Assets Used for Retiree Health Benefits (sec. 420 of the Code, and secs. 101, 403, and 408 of ERISA)**

##### *Present Law*

Defined benefit pension plan assets generally may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. A reversion prior to plan termination may constitute a prohibited transaction and may result in disqualification of the plan. Certain limitations and procedural requirements apply to a reversion upon plan termination. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate, which may be as high as 50 percent of the reversion, varies depending upon whether or not the employer maintains a replacement plan or makes certain benefit increases. Upon plan termination, the accrued benefits of all plan participants are required to be 100-percent vested.

A pension plan may provide medical benefits to retired employees through a section 401(h) account that is a part of such plan. A qualified transfer of excess assets of a defined benefit pension plan (other than a multiemployer plan) into a section 401(h) account that is a part of such plan does not result in plan disqualification and is not treated as a reversion to the employer or a prohibited transaction. Therefore, the transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions.

Qualified transfers are subject to amount and frequency limitations, use requirements, deduction limitations, vesting requirements and minimum benefit requirements. Excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No more than one qualified transfer with respect to any plan may occur in any taxable year.

The transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities (either directly or through reimbursement) for the taxable year of the transfer. Transferred amounts generally must benefit all pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the section 401(h) account. Retiree health benefits of key employees may not be paid (directly or indirectly) out of transferred assets. Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned at the end of the taxable year to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to a 20-percent excise tax.

No deduction is allowed for (1) a qualified transfer of excess pension assets into a section 401(h) account, (2) the payment of qualified current retiree health liabilities out of transferred assets (and any income thereon) or (3) a return of amounts not used to pay qualified current retiree health liabilities to the general assets of the pension plan.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer.

The minimum benefit requirement requires each group health plan under which applicable health benefits are provided to provide substantially the same level of applicable health benefits for the taxable year of the transfer and the following 4 taxable years. The level of benefits that must be maintained is based on benefits provided in the year immediately preceding the taxable year of the transfer. Applicable health benefits are health benefits or coverage that are provided to (1) retirees who, immediately before the transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan and (2) the spouses and dependents of such retirees.

The provision permitting a qualified transfer of excess pension assets to pay qualified current retiree health liabilities expires for taxable years beginning after December 31, 2000.<sup>28</sup>

### *House Bill*

No provision.

### *Senate Amendment*

No provision. However, S. 1792, as passed by the Senate, extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through September 30, 2009.<sup>29</sup> In addition, the present-law minimum benefit requirement is replaced by the minimum cost requirement that applied to qualified transfers before December 9, 1994, to section 401(h) accounts. Therefore, each group health plan or arrangement under which applicable health benefits are provided is required to provide a minimum dollar level of retiree health expenditures for the taxable year of the transfer and the following 4 taxable years. The minimum dollar level is the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the transfer. The applicable employer cost for a taxable year is determined by dividing the employer's qualified current retiree health liabilities by the number of individuals to whom coverage for applicable health benefits was provided during the taxable year.

*Effective date.*—S. 1792, as passed by the Senate, is effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before October 1, 2009. The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. In addition, S. 1792 contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

<sup>28</sup>Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), provides that plan participants, the Secretaries of Treasury and the Department of Labor, the plan administrator, and each employee organization representing plan participants must be notified 60 days before a qualified transfer of excess assets to a retiree health benefits account occurs (ERISA sec. 103(e)). ERISA also provides that a qualified transfer is not a prohibited transaction under ERISA (ERISA sec. 408(b)(13)) or a prohibited reversion of assets to the employer (ERISA sec. 403(c)(1)). For purposes of these provisions, a qualified transfer is generally defined as a transfer pursuant to section 420 of the Internal Revenue Code, as in effect on January 1, 1995.

<sup>29</sup>S. 1792 modifies the corresponding provisions of ERISA.

### *Conference Agreement*

The conference agreement extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through December 31, 2005.<sup>30</sup> The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. The Secretary of the Treasury is directed to prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement. In addition, the conference agreement contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

*Effective date.*—The conference agreement is effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before January 1, 2006. The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. In addition, the conference agreement contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

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<sup>30</sup>The conference agreement modifies the corresponding provisions of ERISA.



**F. Modify Installment Method and Prohibit its Use by Accrual Method Taxpayers (sections 453 and 453A of the Code)**

***Present Law***

An accrual method taxpayer is generally required to recognize income when all the events have occurred that fix the right to the receipt of the income and the amount of the income can be determined with reasonable accuracy. The installment method of accounting provides an exception to this general principle of income recognition by allowing a taxpayer to defer the recognition of income from the disposition of certain property until payment is received. Sales to customers in the ordinary course of business are not eligible for the installment method, except for sales of property that is used or produced in the trade or business of farming and sales of timeshares and residential lots if an election to pay interest under section 453(l)(2)(B) is made.

A pledge rule provides that if an installment obligation is pledged as security for any indebtedness, the net proceeds<sup>31</sup> of such indebtedness are treated as a payment on the obligation, triggering the recognition of income. Actual payments received on the installment obligation subsequent to the receipt of the loan proceeds are not taken into account until such subsequent payments exceed the loan proceeds that were treated as payments. The pledge rule does not apply to sales of property used or produced in the trade or business of farming, to sales of timeshares and residential lots where the taxpayer elects to pay interest under section 453(l)(2)(B), or to dispositions where the sales price does not exceed \$150,000.

An additional rule requires the payment of interest on the deferred tax that is attributable to most large installment sales.

***House Bill***

No provision.

***Senate Amendment***

No provision, but S. 1792, as passed by the Senate, generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting and modifies the installment sale pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note.

***Prohibition on the use of the installment method for accrual method dispositions***

S. 1792 generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method

<sup>31</sup>The net proceeds equal the gross loan proceeds less the direct expenses of obtaining the loan.

of accounting. The provision does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming. The provision also does not change present law regarding the availability of the installment method for dispositions of timeshares or residential lots if the taxpayer elects to pay interest under section 453(l).

The provision does not change the ability of a cash method taxpayer to use the installment method. For example, a cash method individual owns all of the stock of a closely held accrual method corporation. This individual sells his stock for cash, a ten year note, and a percentage of the gross revenues of the company for next ten years. The provision does not change the ability of this individual to use the installment method in reporting the gain on the sale of the stock.

#### ***Modifications to the pledge rule***

S. 1792 modifies the pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note. For example, a taxpayer disposes of property for an installment note. The disposition is properly reported using the installment method. The taxpayer only recognizes gain as it receives the deferred payment. However, were the taxpayer to pledge the installment note as security for a loan, it would be required to treat the proceeds of such loan as a payment on the installment note, and recognize the appropriate amount of gain. Under the provision, the taxpayer would also be required to treat the proceeds of a loan as payment on the installment note to the extent the taxpayer had the right to "put" or repay the loan by transferring the installment note to the taxpayer's creditor. Other arrangements that have a similar effect would be treated in the same manner.

The modification of the pledge rule applies only to installment sales where the pledge rule of present law applies. Accordingly, the provision does not apply to (1) installment method sales made by a dealer in timeshares and residential lots where the taxpayer elects to pay interest under section 453(1)(2)(B), (2) sales of property used or produced in the trade or business of farming, or (3) dispositions where the sales price does not exceed \$150,000, since such sales are not subject to the pledge rule under present law.

*Effective date.*—The provision is effective for sales or other dispositions entered into on or after the date of enactment.

#### ***Conference Agreement***

The conference agreement includes the provision in S. 1792.

#### **G. Denial of Charitable Contribution Deduction for Transfers Associated with Split-dollar Insurance Arrangements (new sec. 501(c)(28) of the Code)**

##### ***Present Law***

Under present law, in computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct charitable

contributions paid during the taxable year. The amount of the deduction allowable for a taxable year with respect to any charitable contribution depends on the type of property contributed, the type of organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). A charitable contribution is defined to mean a contribution or gift to or for the use of a charitable organization or certain other entities (sec. 170(c)). The term "contribution or gift" is not defined by statute, but generally is interpreted to mean a voluntary transfer of money or other property without receipt of adequate consideration and with donative intent. If a taxpayer receives or expects to receive a quid pro quo in exchange for a transfer to charity, the taxpayer may be able to deduct the excess of the amount transferred over the fair market value of any benefit received in return, provided the excess payment is made with the intention of making a gift.<sup>32</sup>

In general, no charitable contribution deduction is allowed for a transfer to charity of less than the taxpayer's entire interest (i.e., a partial interest) in any property (sec. 170(f)(3)). In addition, no deduction is allowed for any contribution of \$250 or more unless the taxpayer obtains a contemporaneous written acknowledgment from the donee organization that includes a description and good faith estimate of the value of any goods or services provided by the donee organization to the taxpayer in consideration, whole or part, for the taxpayer's contribution (sec. 170(f)(8)).

#### ***House Bill***

No provision.

#### ***Senate Amendment***

##### ***Deduction denial***

No provision. However, S. 1792, as passed by the Senate, contains a provision<sup>33</sup> that restates present law to provide that no charitable contribution deduction is allowed for purposes of Federal tax, for a transfer to or for the use of an organization described in section 170(c) of the Internal Revenue Code, if in connection with the transfer (1) the organization directly or indirectly pays, or has previously paid, any premium on any "personal benefit contract" with respect to the transferor, or (2) there is an understanding or expectation that any person will directly or indirectly pay any premium on any "personal benefit contract" with respect to the transferor. It is intended that an organization be considered as indirectly paying premiums if, for example, another person pays premiums on its behalf.

A personal benefit contract with respect to the transferor is any life insurance, annuity, or endowment contract, if any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other person (other than a section 170(c) organization) designated by the transferor. For example, such a beneficiary would include a trust having a direct or indirect

<sup>32</sup> *United States v. American Bar Endowment*, 477 U.S. 105 (1986). Treas. Reg. sec. 1.170A-1(h).

<sup>33</sup> The provision is similar to H.R. 630, introduced by Mr. Archer and Mr. Rangel (106th Cong., 1st Sess.).

beneficiary who is the transferor or any member of the transferor's family, and would include an entity that is controlled by the transferor or any member of the transferor's family. It is intended that a beneficiary under the contract include any beneficiary under any side agreement relating to the contract. If a transferor contributes a life insurance contract to a section 170(c) organization and designates one or more section 170(c) organizations as the sole beneficiaries under the contract, generally, it is not intended that the deduction denial rule under the provision apply. If, however, there is an outstanding loan under the contract upon the transfer of the contract, then the transferor is considered as a beneficiary. The fact that a contract also has other direct or indirect beneficiaries (persons who are not the transferor or a family member, or designated by the transferor) does not prevent it from being a personal benefit contract. The provision is not intended to affect situations in which an organization pays premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of amounts paid under or with respect to the contract. For this purpose, as described below, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m)).

In the case of a charitable gift annuity, if the charitable organization purchases an annuity contract issued by an insurance company to fund its obligation to pay the charitable gift annuity, a person receiving payments under the charitable gift annuity is not treated as an indirect beneficiary, provided certain requirements are met. The requirements are that (1) the charitable organization possess all of the incidents of ownership (within the meaning of Treas. Reg. sec. 20.2042-1(c)) under the annuity contract purchased by the charitable organization; (2) the charitable organization be entitled to all the payments under the contract; and (3) the timing and amount of payments under the contract be substantially the same as the timing and amount of payments to each person under the organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

Under the provision, an individual's family consists of the individual's grandparents, the grandparents of the individual's spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

In the case of a charitable gift annuity obligation that is issued under the laws of a State that requires, in order for the charitable gift annuity to be exempt from insurance regulation by that State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in that State, then the foregoing requirements (1) and (2) are treated as if they are met, provided that certain additional requirements are met. The additional requirements are that the State law requirement was in effect on February 8, 1999, each beneficiary under the charitable gift annuity is a bona fide resident of the State at the time the chari-

table gift annuity was issued, the only persons entitled to payments under the annuity contract issued by the insurance company are persons entitled to payments under the charitable gift annuity when it was issued, and (as required by clause (iii) of subparagraph (D) of the provision) the timing and amount of payments under the annuity contract to each person are substantially the same as the timing and amount of payments to the person under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)) that holds a life insurance, endowment or annuity contract issued by an insurance company, a person is not treated as an indirect beneficiary under the contract held by the trust, solely by reason of being a recipient of an annuity or unitrust amount paid by the trust, provided that the trust possesses all of the incidents of ownership under the contract and is entitled to all the payments under such contract. No inference is intended as to the applicability of other provisions of the Code with respect to the acquisition by the trust of a life insurance, endowment or annuity contract, or the appropriateness of such an investment by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a personal benefit contract, solely because an individual who is a recipient of an annuity or unitrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust uses such a payment to purchase a life insurance, endowment or annuity contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

#### ***Excise tax***

The provision imposes on any organization described in section 170(c) of the Code an excise tax, equal to the amount of the premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The excise tax does not apply if all of the direct and indirect beneficiaries under the contract (including any related side agreement) are organizations described in section 170(c). Under the provision, payments are treated as made by the organization, if they are made by any other person pursuant to an understanding or expectation of payment. The excise tax is to be applied taking into account rules ordinarily applicable to excise taxes in chapter 41 or 42 of the Code (e.g., statute of limitation rules).

#### ***Reporting***

The provision requires that the charitable organization annually report the amount of premiums that is paid during the year and that is subject to the excise tax imposed under the provision, and the name and taxpayer identification number of each beneficiary under the life insurance, annuity or endowment contract to which the premiums relate, as well as other information required

by the Secretary of the Treasury. For this purpose, it is intended that a beneficiary include any beneficiary under any side agreement to which the section 170(c) organization is a party (or of which it is otherwise aware). Penalties applicable to returns required under Code section 6033 apply to returns under this reporting requirement. Returns required under this provision are to be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

#### ***Regulations***

The provision provides for the promulgation of regulations necessary or appropriate to carry out the purposes of the provisions, including regulations to prevent the avoidance of the purposes of the provision. For example, it is intended that regulations prevent avoidance of the purposes of the provision by inappropriate or improper reliance on the limited exceptions provided for certain beneficiaries under bona fide charitable gift annuities and for certain noncharitable recipients of an annuity or unitrust amount paid by a charitable remainder trust.

#### ***Effective date***

The deduction denial provision applies to transfers after February 8, 1999 (as provided in H.R. 630). The excise tax provision applies to premiums paid after the date of enactment. The reporting provision applies to premiums paid after February 8, 1999 (determined as if the excise tax imposed under the provision applied to premiums paid after that date).

No inference is intended that a charitable contribution deduction is allowed under present law with respect to a charitable split-dollar insurance arrangement. The provision does not change the rules with respect to fraud or criminal or civil penalties under present law; thus, actions constituting fraud or that are subject to penalties under present law would still constitute fraud or be subject to the penalties after enactment of the provision.

#### ***Conference Agreement***

The conference agreement includes the provision in S. 1792.

### **H. Distributions by a Partnership to a Corporate Partner of Stock in Another Corporation (sec. 732 of the Code)**

#### ***Present Law***

Present law generally provides that no gain or loss is recognized on the receipt by a corporation of property distributed in complete liquidation of another corporation in which it holds 80 percent of the stock (by vote and value) (sec. 332). The basis of property received by a corporate distributee in the distribution in complete liquidation of the 80-percent-owned subsidiary is a carry-over basis, i.e., the same as the basis in the hands of the subsidiary (provided no gain or loss is recognized by the liquidating corporation with respect to the distributed property) (sec. 334(b)).

Present law provides two different rules for determining a partner's basis in distributed property, depending on whether or

not the distribution is in liquidation of the partner's interest in the partnership. Generally, a substituted basis rule applies to property distributed to a partner in liquidation. Thus, the basis of property distributed in liquidation of a partner's interest is equal to the partner's adjusted basis in its partnership interest (reduced by any money distributed in the same transaction) (sec. 732(b)).

By contrast, generally, a carryover basis rule applies to property distributed to a partner other than in liquidation of its partnership interest, subject to a cap (sec. 732(a)). Thus, in a non-liquidating distribution, the distributee partner's basis in the property is equal to the partnership's adjusted basis in the property immediately before the distribution, but not to exceed the partner's adjusted basis in its partnership interest (reduced by any money distributed in the same transaction). In a non-liquidating distribution, the partner's basis in its partnership interest is reduced by the amount of the basis to the distributee partner of the property distributed and is reduced by the amount of any money distributed (sec. 733).

If corporate stock is distributed by a partnership to a corporate partner with a low basis in its partnership interest, the basis of the stock is reduced in the hands of the partner so that the stock basis equals the distributee partner's adjusted basis in its partnership interest. No comparable reduction is made in the basis of the corporation's assets, however. The effect of reducing the stock basis can be negated by a subsequent liquidation of the corporation under section 332.<sup>34</sup>

#### ***House Bill***

No provision.

#### ***Senate Amendment***

##### ***In general***

No provision. However, S. 1792, as passed by the Senate, contains a provision that provides for a basis reduction to assets of a corporation, if stock in that corporation is distributed by a partnership to a corporate partner. The reduction applies if, after the distribution, the corporate partner controls the distributed corporation.

##### ***Amount of the basis reduction***

Under the provision, the amount of the reduction in basis of property of the distributed corporation generally equals the amount of the excess of (1) the partnership's adjusted basis in the stock of the distributed corporation immediately before the distribution, over (2) the corporate partner's basis in that stock immediately after the distribution.

The provision limits the amount of the basis reduction in two respects. First, the amount of the basis reduction may not exceed the amount by which (1) the sum of the aggregate adjusted bases

<sup>34</sup>In a similar situation involving the purchase of stock of a subsidiary corporation as replacement property following an involuntary conversion, the Code generally requires the basis of the assets held by the subsidiary to be reduced to the extent that the basis of the stock in the replacement corporation itself is reduced (sec. 1033).

of the property and the amount of money of the distributed corporation exceeds (2) the corporate partner's adjusted basis in the stock of the distributed corporation. Thus, for example, if the distributed corporation has cash of \$300 and other property with a basis of \$600 and the corporate partner's basis in the stock of the distributed corporation is \$400, then the amount of the basis reduction could not exceed \$500 (i.e.,  $(\$300 + \$600) - \$400 = \$500$ ).

Second, the amount of the basis reduction may not exceed the adjusted basis of the property of the distributed corporation. Thus, the basis of property (other than money) of the distributed corporation could not be reduced below zero under the provision, even though the total amount of the basis reduction would otherwise be greater.

The provision provides that the corporate partner recognizes long-term capital gain to the extent the amount of the basis reduction exceeds the basis of the property (other than money) of the distributed corporation. In addition, the corporate partner's adjusted basis in the stock of the distribution is increased in the same amount. For example, if the amount of the basis reduction were \$400, and the distributed corporation has money of \$200 and other property with an adjusted basis of \$300, then the corporate partner would recognize a \$100 capital gain under the provision. The corporate partner's basis in the stock of the distributed corporation is also increased by \$100 in this example, under the provision.

The basis reduction is allocated among assets of the controlled corporation in accordance with the rules provided under section 732(c).

#### ***Partnership distributions resulting in control***

The basis reduction generally applies with respect to a partnership distribution of stock if the corporate partner controls the distributed corporation immediately after the distribution or at any time thereafter. For this purpose, the term control means ownership of stock meeting the requirements of section 1504(a)(2) (generally, an 80-percent vote and value requirement).

The provision applies to reduce the basis of any property held by the distributed corporation immediately after the distribution, or, if the corporate partner does not control the distributed corporation at that time, then at the time the corporate partner first has such control. The provision does not apply to any distribution if the corporate partner does not have control of the distributed corporation immediately after the distribution and establishes that the distribution was not part of a plan or arrangement to acquire control.

For purposes of the provision, if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to section 732(a)(2) or (b), then the corporation is treated as receiving a distribution of stock from a partnership. For example, if a partnership distributes property other than stock (such as real estate) to a corporate partner, and that corporate partner contributes the real estate to another corporation in a section 351 transaction, then the stock received in the section 351 transaction is not treated as distributed by a partnership, and the basis reduction under this provision does not apply.



As another example, if a partnership distributes stock to two corporate partners, neither of which have control of the distributed corporation, and the two corporate partners merge and the survivor obtains control of the distributed corporation, the stock of the distributed corporation that is acquired as a result of the merger is treated as received in a partnership distribution; the basis reduction rule of the provision applies.

In the case of tiered corporations, a special rule provides that if the property held by a distributed corporation is stock in a corporation that the distributed corporation controls, then the provision is applied to reduce the basis of the property of that controlled corporation. The provision is also reapplied to any property of any controlled corporation that is stock in a corporation that it controls. Thus, for example, if stock of a controlled corporation is distributed to a corporate partner, and the controlled corporation has a subsidiary, the amount of the basis reduction allocable to stock of the subsidiary is applied again to reduce the basis of the assets of the subsidiary, under the special rule.

The provision also provides for regulations, including regulations to avoid double counting and to prevent the abuse of the purposes of the provision. It is intended that regulations prevent the avoidance of the purposes of the provision through the use of tiered partnerships.

#### ***Effective date***

The provision is effective for distributions made after July 14, 1999, except that in the case of a corporation that is a partner in a partnership on July 14, 1999, the provision is effective for distributions by that partnership to the corporation after the date of enactment.

#### ***Conference Agreement***

The conference agreement includes the provision of S. 1792, with a modification to the effective date.

***Effective date.***—The provision is effective generally for distributions made after July 14, 1999. However, in the case of a corporation that is a partner in a partnership as of July 14, 1999, the provision is effective for any distribution made (or treated as made) to that partner from that partnership after June 30, 2001. In the case of any such distribution after the date of enactment and before July 1, 2001, the rule of the preceding sentence does not apply unless that partner makes an election to have the rule apply to the distribution on the partner's return of Federal income tax for the taxable year in which the distribution occurs.

No inference is intended that distributions that are not subject to the provision achieve a particular tax result under present law, and no inference is intended that enactment of the provision limits the application of tax rules or principles under present or prior law.

## I. Treatment of Real Estate Investment Trusts (REITs)

### 1. Provisions relating to REITs (secs. 852, 856, and 857 of the Code)

#### *Present Law*

A real estate investment trust ("REIT") is an entity that receives most of its income from passive real-estate related investments and that essentially receives pass-through treatment for income that is distributed to shareholders.

If an electing entity meets the requirements for REIT status, the portion of its income that is distributed to the investors each year generally is taxed to the investors without being subjected to a tax at the REIT level. In general, a REIT must derive its income from passive sources and not engage in any active trade or business.

A REIT must satisfy a number of tests on a year by year basis that relate to the entity's (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income. Under the source-of-income tests, at least 95 percent of its gross income generally must be derived from rents from real property, dividends, interest, and certain other passive sources (the "95 percent test"). In addition, at least 75 percent of its gross income generally must be from real estate sources, including rents from real property and interest on mortgages secured by real property. For purposes of the 95 and 75 percent tests, qualified income includes amounts received from certain "foreclosure property," treated as such for 3 years after the property is acquired by the REIT in foreclosure after a default (or imminent default) on a lease of such property or on indebtedness which such property secured.

In general, for purposes of the 95 percent and 75 percent tests, rents from real property do not include amounts for services to tenants or for managing or operating real property. However, there are some exceptions. Qualified rents include amounts received for services that are "customarily furnished or rendered" in connection with the rental of real property, so long as the services are furnished through an independent contractor from whom the REIT does not derive any income. Amounts received for services that are not "customarily furnished or rendered" are not qualified rents.

An independent contractor is defined as a person who does not own, directly or indirectly, more than 35 percent of the shares of the REIT. Also, no more than 35 percent of the total shares of stock of an independent contractor (or of the interests in assets or net profits, if not a corporation) can be owned directly or indirectly by persons owning 35 percent or more of the interests in the REIT. In addition, a REIT cannot derive any income from an independent contractor.

Rents for certain personal property leased in connection with real property are treated as rents from real property if the adjusted basis of the personal property does not exceed 15 percent of the aggregate adjusted bases of the real and the personal property.

Rents from real property do not include amounts received from any corporation if the REIT owns 10 percent or more of the voting power or of the total number of shares of all classes of stock of such

corporation. Similarly, in the case of other entities, rents are not qualified if the REIT owns 10 percent or more in the assets or net profits of such person.

At the close of each quarter of the taxable year, at least 75 percent of the value of total REIT assets must be represented by real estate assets, cash and cash items, and Government securities. Also, a REIT cannot own securities (other than Government securities and certain real estate assets) in an amount greater than 25 percent of the value of REIT assets. In addition, it cannot own securities of any one issuer representing more than 5 percent of the total value of REIT assets or more than 10 percent of the voting securities of any corporate issuer. Securities for purposes of these rules are defined by reference to the Investment Company Act of 1940.<sup>35</sup>

Under an exception to the ownership rule, a REIT is permitted to have a wholly owned subsidiary corporation, but the assets and items of income and deduction of such corporation are treated as those of the REIT, and thus can affect the qualification of the REIT under the income and asset tests.

A REIT generally is required to distribute 95 percent of its income before the end of its taxable year, as deductible dividends paid to shareholders. This rule is similar to a rule for regulated investment companies ("RICs") that requires distribution of 90 percent of income. Both REITs and RICs can make certain "deficiency dividends" after the close of the taxable year, and have these treated as made before the end of the year. The regulations applicable to REITs state that a distribution will be treated as a "deficiency dividend" (and, thus, as made before the end of the prior taxable year) only to the extent the earnings and profits for that year exceed the amount of distributions actually made during the taxable year.<sup>36</sup>

A REIT that has been or has combined with a C corporation<sup>37</sup> will be disqualified if, as of the end of its taxable year, it has accumulated earnings and profits from a non-REIT year. A similar rule applies to regulated investment companies ("RICs"). In the case of a REIT, any distribution made in order to comply with this requirement is treated as being first from pre-REIT accumulated earnings and profits. RICs do not have a similar ordering rule.

In the case of a RIC, any distribution made within a specified period after determination that the investment company did not qualify as a RIC for the taxable year will be treated as applying to the RIC for the non-RIC year, "for purposes of applying [the earnings and profits rule that forbids a RIC to have non-RIC earnings and profits] to subsequent taxable years." The REIT rules do not specify any particular separate treatment of distributions made after the end of the taxable year for purposes of the earnings and profits rule. Treasury regulations under the REIT provisions state that "distribution procedures similar to those \* \* \* for regulated

<sup>35</sup> 15 U.S.C. 80a-1 and following. See Code section 856(c)(5)(F).

<sup>36</sup> Treas. Reg. sec. 1.858-1(b)(2).

<sup>37</sup> A "C corporation" is a corporation that is subject to taxation under the rules of subchapter C of the Internal Revenue Code, which generally provides for a corporate level tax on corporate income. Thus, a C corporation is not a pass-through entity. Earnings and profits of a C corporation, when distributed to shareholders, are taxed to the shareholders as dividends.

investment companies apply to non-REIT earnings and profits of a real estate investment trust.”<sup>38</sup>

#### *House Bill*

No provision.

#### *Senate Amendment*

No provision, but S. 1792, as passed by the Senate, provides as follows:

#### *Investment limitations and taxable REIT subsidiaries*

*General rule.*—Under the provision, a REIT generally cannot own more than 10 percent of the total value of securities of a single issuer, in addition to the present law rule that a REIT cannot own more than 10 percent of the outstanding voting securities of a single issuer. In addition, no more than 20 percent of the value of a REIT’s assets can be represented by securities of the taxable REIT subsidiaries that are permitted under the bill.

*Exception for safe-harbor debt.*—For purposes of the new 10-percent value test, securities are generally defined to exclude safe harbor debt owned by a REIT (as defined for purposes of sec. 1361(c)(5)(B)(i) and (ii)) if the issuer is an individual, or if the REIT (and any taxable REIT subsidiary of such REIT) owns no other securities of the issuer. However, in the case of a REIT that owns securities of a partnership, safe harbor debt is excluded from the definition of securities only if the REIT owns at least 20-percent or more of the profits interest in the partnership. The purpose of the partnership rule requiring a 20 percent profits interest is to assure that if the partnership produces income that would be disqualified income to the REIT, the REIT will be treated as receiving a significant portion of that income directly through its partnership interest, even though it also may derive qualified interest income through its safe harbor debt interest.

*Exception for taxable REIT subsidiaries.*—An exception to the limitations on ownership of securities of a single issuer applies in the case of a “taxable REIT subsidiary” that meets certain requirements. To qualify as a taxable REIT subsidiary, both the REIT and the subsidiary corporation must join in an election. In addition, any corporation (other than a REIT or a qualified REIT subsidiary under section 856(i) that does not properly elect with the REIT to be a taxable REIT subsidiary) of which a taxable REIT subsidiary owns, directly or indirectly, more than 35 percent of the vote or value is automatically treated as a taxable REIT subsidiary.

Securities (as defined in the Investment Company Act of 1940) of taxable REIT subsidiaries could not exceed 20 percent of the total value of a REIT’s assets.

A taxable REIT subsidiary can engage in certain business activities that under present law could disqualify the REIT because, but for the proposal, the taxable REIT subsidiary’s activities and relationship with the REIT could prevent certain income from qualifying as rents from real property. Specifically, the subsidiary

<sup>38</sup>Treas. Reg. sec. 1.857-11(c).

can provide services to tenants of REIT property (even if such services were not considered services customarily furnished in connection with the rental of real property), and can manage or operate properties, generally for third parties, without causing amounts received or accrued directly or indirectly by the REIT for such activities to fail to be treated as rents from real property. However, rents paid to a REIT generally are not qualified rents if the REIT owns more than 10 percent of the value, (as well as of the vote) of a corporation paying the rents. The only exceptions are for rents that are paid by taxable REIT subsidiaries and that also meet a limited rental exception (where 90 percent of space is leased to third parties at comparable rents) and an exception for rents from certain lodging facilities (operated by an independent contractor).

However, the subsidiary cannot directly or indirectly operate or manage a lodging or healthcare facility. Nevertheless, it can lease a qualified lodging facility (e.g., a hotel) from the REIT (provided no gambling revenues were derived by the hotel or on its premises); and the rents paid are treated as rents from real property so long as the lodging facility was operated by an independent contractor for a fee. The subsidiary can bear all expenses of operating the facility and receive all the net revenues, minus the independent contractor's fee.

For purposes of the rule that an independent contractor may operate a qualified lodging facility, an independent contractor will qualify so long as, at the time it enters into the management agreement with the taxable REIT subsidiary, it is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not related to the REIT or the taxable REIT subsidiary. The REIT may receive income from such an independent contractor with respect to certain pre-existing leases.

Also, the subsidiary generally cannot provide to any person rights to any brand name under which hotels or healthcare facilities are operated. An exception applies to rights provided to an independent contractor to operate or manage a lodging facility, if the rights are held by the subsidiary as licensee or franchisee, and the lodging facility is owned by the subsidiary or leased to it by the REIT.

Interest paid by a taxable REIT subsidiary to the related REIT is subject to the earnings stripping rules of section 163(j). Thus the taxable REIT subsidiary cannot deduct interest in any year that would exceed 50 percent of the subsidiary's adjusted gross income.

If any amount of interest, rent, or other deductions of the taxable REIT subsidiary for amounts paid to the REIT is determined to be other than at arm's length ("redetermined" items), an excise tax of 100 percent is imposed on the portion that was excessive. "Safe harbors" are provided for certain rental payments where (1) the amounts are de minimis, (2) there is specified evidence that charges to unrelated parties are substantially comparable, (3) certain charges for services from the taxable REIT subsidiary are separately stated, or (4) the subsidiary's gross income from the service is not less than 150 percent of the subsidiary's direct cost in furnishing the service.

In determining whether rents are arm's length rents, the fact that such rents do not meet the requirements of the specified safe

harbors shall not be taken into account. In addition, rent received by a REIT shall not fail to qualify as rents from real property by reason of the fact that all or any portion of such rent is redetermined for purposes of the excise tax.

The Treasury Department is to conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries and shall submit a report to the Congress describing the results of such study.

#### ***Health Care REITS***

The provision permits a REIT to own and operate a health care facility for at least two years, and treat it as permitted "foreclosure" property, if the facility is acquired by the termination or expiration of a lease of the property. Extensions of the 2 year period can be granted.

#### ***Conformity with regulated investment company rules***

Under the provision, the REIT distribution requirements are modified to conform to the rules for regulated investment companies. Specifically, a REIT is required to distribute only 90 percent, rather than 95 percent, of its income.

#### ***Definition of independent contractor***

If any class of stock of the REIT or the person being tested as an independent contractor is regularly traded on an established securities market, only persons who directly or indirectly own 5 percent or more of such class of stock shall be counted in determining whether the 35 percent ownership limitations have been exceeded.

#### ***Modification of earnings and profits rules for RICs and REITs***

The rule allowing a RIC to make a distribution after a determination that it had failed RIC status, and thus meet the requirement of no non-RIC earnings and profits in subsequent years, is modified to clarify that, when the sole reason for the determination is that the RIC had non-RIC earnings and profits in the initial year (i.e. because it was determined not to have distributed all C corporation earnings and profits), the procedure would apply to permit RIC qualification in the initial year to which such determination applied, in addition to subsequent years.

The RIC earnings and profits rules are also modified to provide an ordering rule similar to the REIT rule, treating a distribution to meet the requirement of no non-RIC earnings and profits as coming first from the earliest earnings and profits accumulated in any year for which the RIC did not qualify as a RIC. In addition, the REIT deficiency dividend rules are modified to take account of this ordering rule.

#### ***Provision regarding rental income from certain personal property***

The provision modifies the present law rule that permits certain rents from personal property to be treated as real estate rental income if such personal property does not exceed 15 percent of the aggregate of real and personal property. The provision replaces the

present law comparison of the adjusted bases of properties with a comparison based on fair market values.

*Effective date.*—The provision is effective for taxable years beginning after December 31, 2000. The provision with respect to modification of earnings and profits rules is effective for distributions after December 31, 2000.

In the case of the provisions relating to permitted ownership of securities of an issuer, special transition rules apply. The new rules forbidding a REIT to own more than 10 percent of the value of securities of a single issuer do not apply to a REIT with respect to securities held directly or indirectly by such REIT on July 12, 1999, or acquired pursuant to the terms of written binding contract in effect on that date and at all times thereafter until the acquisition.

Also, securities received in a tax-free exchange or reorganization, with respect to or in exchange for such grandfathered securities would be grandfathered. The grandfathering of such securities ceases to apply if the REIT acquires additional securities of that issuer after that date, other than pursuant to a binding contract in effect on that date and at all times thereafter, or in a reorganization with another corporation the securities of which are grandfathered.

This transition also ceases to apply to securities of a corporation as of the first day after July 12, 1999 on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than pursuant to a binding contract in effect on such date and at all times thereafter, or in a reorganization or transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Code. If a corporation makes an election to become a taxable REIT subsidiary, effective before January 1, 2004 and at a time when the REIT's ownership is grandfathered under these rules, the election is treated as a reorganization under section 368(a)(1)(A) of the Code.

The new 10 percent of value limitation for purposes of defining qualified rents is effective for taxable years beginning after December 31, 2000. There is an exception for rents paid under a lease or pursuant to a binding contract in effect on July 12, 1999 and at all times thereafter.

### **Conference Agreement**

The conference agreement includes the provision in S. 1792. The conference agreement clarifies the RIC and REIT earnings and profits ordering rules in the case of a distribution to meet the requirements that there be no non-RIC or non-REIT earnings and profits in any year.

Both the RIC and REIT earnings and profits rules are modified to provide a more specific ordering rule, similar to the present-law REIT rule. The new ordering rule treats a distribution to meet the requirement of no non-RIC or non-REIT earnings and profits as coming, on a first-in, first-out basis, from earnings and profits which, if not distributed, would result in a failure to meet such requirement. Thus, such earnings and profits are deemed distributed first from earnings and profits that would cause such a failure,

starting with the earliest RIC or REIT year for which such failure would occur.

**2. Modify estimated tax rules for closely held REITs (sec. 6655 of the Code)**

***Present Law***

If a person has a direct interest or a partnership interest in income-producing assets (such as securities generally, or mortgages) that produce income throughout the year, that person's estimated tax payments must reflect the quarterly amounts expected from the asset.

However, a dividend distribution of earnings from a REIT is considered for estimated tax purposes when the dividend is paid. Some corporations have established closely held REITs that hold property (e.g. mortgages) that if held directly by the controlling entity would produce income throughout the year. The REIT may make a single distribution for the year, timed such that it need not be taken into account under the estimated tax rules as early as would be the case if the assets were directly held by the controlling entity. The controlling entity thus defers the payment of estimated taxes.

***House Bill***

No provision.

***Senate Amendment***

No provision, but S. 1792, as passed by the Senate, provides that in the case of a REIT that is closely held, any person owning at least 10 percent of the vote or value of the REIT is required to accelerate the recognition of year-end dividends attributable to the closely held REIT, for purposes of such person's estimated tax payments. A closely held REIT is defined as one in which at least 50 percent of the vote or value is owed by five or fewer persons. Attribution rules apply to determine ownership.

No inference is intended regarding the treatment of any transaction prior to the effective date.

*Effective date.*—The provision is effective for estimated tax payments due on or after November 15, 1999.

***Conference Agreement***

The conference agreement includes the provision in S. 1792, effective for estimated tax payments due on or after December 15, 1999.

**TAX COMPLEXITY ANALYSIS**

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if



the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

**ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT FOR H.R. 1180<sup>1</sup>**

[Fiscal years 2000-2009, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-2004	2000-2009
<b>The "Tax Relief Extension Act of 1999"</b>													
<b>I. Extension of Expiring Provisions</b>													
A. Treatment of Nonrefundable Personal Credits Under the Alternative Individual Minimum Tax (through 12/31/01)	tybl 1999	- 972	- 977	- 943								- 2,892	- 2,892
B. Research Tax Credit, and Increase AIC Rates by 1 Percentage Point, and Expand to Puerto Rico and the Other Possessions; Delay Claiming of Credit <sup>2</sup> (through 6/30/04)	( <sup>3</sup> )		- 1,661	- 4,082	- 2,541	- 2,242	- 1,343	- 708	- 386	- 150	- 26	- 10,526	- 13,139
C. Exemption from Subpart F for Active Financing Income (through 12/31/01)	tyba 12/31/99	- 187	- 785	- 744								- 1,716	- 1,716
D. Suspension of 100% Net Income Limitation for Marginal Properties (through 12/31/01)	tyba 12/31/99	- 23	- 35	- 12								- 71	- 71
E. Work Opportunity Tax Credit (through 12/31/01)	wpoftbwa 6/30/99	- 229	- 321	- 293	- 151	- 58	- 19	- 3				- 1,051	- 1,073
F. Welfare-to-Work Tax Credit (through 12/31/01)	wpoftbwa 6/20/99	- 49	- 77	- 79	- 47	- 19	- 7	- 2				- 272	- 281
G. Extension of Employer Provided Educational Assistance for Undergraduate Courses (through 12/31/01)	eba 5/31/00	- 134	- 318	- 132								- 584	- 584
H. Extend and Modify Tax Credit for Electricity Produced From Wind and Closed-Loop Biomass Facilities—credit to include electricity produced from poultry waste (through 12/31/01)	( <sup>4</sup> )	- 9	- 25	- 33	- 33	- 34	- 35	- 36	- 37	- 38	- 38	- 135	- 318
I. Reauthorization of Generalized System of Preferences (through 9/30/01) <sup>5</sup>	7/1/99	- 438	- 360									- 798	- 798
J. Extend Qualified Zone Academy Bond Program (3-year carryforward for 1998 and 1999 authority; 2-year carryforward thereafter) (through 12/31/01)	tybl 2000	- 3	- 11	- 20	- 28	- 30	- 30	- 30	- 30	- 30	- 30	- 92	- 242
K. Extend the \$5,000 Credit for First-Time Homebuyers in the District of Columbia through 12/31/01)	1/1/01		- 5	- 15	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	( <sup>6</sup> )	- 20	- 20
L. Extend Brownfields Environmental Remediation (through 12/31/01)	DOE	11	- 43	- 59	- 20	- 2	- 1	2	5	6	8	- 114	- 93
M. Increase Amount of Rum Excise Tax That is Covered Over to Puerto Rico and the U.S. Virgin Islands (from \$10.50 per proof gallon to \$13.25 per proof gallon) (through 12/31/01)( <sup>5</sup> )( <sup>6</sup> )	( <sup>6</sup> )	- 20	- 115	- 15								- 150	- 150
<b>Total of Extension of Expiring Provisions</b>		<b>- 2,053</b>	<b>- 4,733</b>	<b>- 6,427</b>	<b>- 2,820</b>	<b>- 2,385</b>	<b>- 1,435</b>	<b>- 777</b>	<b>- 448</b>	<b>- 212</b>	<b>- 86</b>	<b>- 18,421</b>	<b>- 150</b>
<b>II. Other Time-Sensitive Revenue Provisions</b>													
A. Prohibit Disclosure of Advance Pricing Agreements (APAs) and Related Information; Require the IRS to Submit to Congress an Annual Report of Such Agreements.	DOE												
B. Authority to Postpone Certain Tax-Related Deadlines by Reason of Year 2000 Failures.	DOE												
C. Add the Streptococcus Pneumoniae Vaccine to the List of Taxable Vaccines in the Federal Vaccine Insurance Program; Study of Program.	sdba DOE	4	7	9	10	10	10	10	10	10	11	39	91

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**ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT FOR H.R. 1180<sup>1</sup>—Continued**

[Fiscal years 2000–2009, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–2004	2000–2009
D. Delay the Requirement that Registered Motor Fuels Terminals Offer Dyed Kerosene as a Condition of Registration (through 12/31/01).	DOE												
E. Provide that Federal Farm Production Payments are Taxable in the Year of Receipt.	DOE												
<b>Total of Other Time-Sensitive Revenue Provisions ...</b>		<b>4</b>	<b>7</b>	<b>9</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>11</b>	<b>39</b>	<b>91</b>
<b>III. Revenue Offset Provisions</b>													
A. Modify Individual Estimated Tax Safe Harbor to 108.6% for Tax Year 2000 and 110% for Tax Year 2001.	tyba 12/31/99	1,560	840	-2,400									
B. Clarify the Tax Treatment of Income and Losses from Derivatives.	DOE	( <sup>9</sup> )	1	1	1	1	1	1	1	1	1	4	9
C. Information Reporting on Cancellation of Indebtedness by Non-Bank Financial Institutions.	cola 12/31/99		7	7	7	7	7	7	7	7	7	28	63
D. Prevent the Conversion of Ordinary Income or Short-Term Capital Gains into Income Eligible for Long-Term Capital Gain Rates.	leio/a 7/12/99	15	45	47	49	51	54	58	62	66	70	207	517
E. Allow Employers to Transfer Excess Defined Benefit Plan Assets to a Special Account for Health Benefits of Retirees (through 12/31/05).	tmi tyba 12/31/00		19	38	39	40	43	23				136	200
F. Repeat Installment Method for Most Accrual Basis Taxpayers; Adjust Pledge Rules.	iso/a ODE	477	677	406	257	72	8	21	35	48	62	1,889	2,063
G. Dony Deduction and Impose Excise Tax With Respect to Charitable Split-Dollar Life Insurance Arrangements.	( <sup>10</sup> )												
H. Distributions by a Partnership to a Corporate Partner of Stock in Another Corporation.	( <sup>11</sup> )	2	4	7	10	10	10	10	10	10	10	33	83
I. Real Estate Investment Trust (REIT) Provisions													
1. Impose 10% vote or value test	tyba 12/31/00		2	8	8	8	9	9	9	10	10	26	73
2. Treatment of income and services provided by taxable REIT subsidiaries, with 20% asset limitation.	tyba 12/31/00		50	131	44	19	-9	-39	-72	-107	-146	244	-129
3. Personal property treatment for determining rents from real property for REITs.	tyba 12/31/00		-1	-1	-1	-1	-1	-1	-1	-1	-1	-3	-7
4. Special foreclosure rule for health care REITs	tyba 12/31/00												
5. Conformity with RIC 90% distribution rules	tyba 12/31/00		1	1	1	1	1	1	1	1	1	3	5
6. Clarification of definition of independent operators for REITs.	tyba 12/31/00												
7. Modification of earnings and profits rules	da 12/31/00		-6	-3	-3	-3	-4	-4	-4	-4	-4	-16	-35
8. Modify estimated tax rules for closely-owned REIT dividends.	epdo/a 12/15/99	40	1	1	1	1	1	1	1	1	1	45	52
<b>Total of Revenue Offset Provisions</b>		<b>2,094</b>	<b>1,640</b>	<b>-1,757</b>	<b>413</b>	<b>206</b>	<b>120</b>	<b>87</b>	<b>49</b>	<b>-32</b>	<b>11</b>	<b>2,596</b>	<b>2,894</b>

Net total	45	-3,088	-8,175	-2,397	-2,169	-1,305	-680	-389	-170	-64	-15,786	-18,392
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<sup>1</sup> Another Title of H.R. 1180 contains an additional revenue provision that modifies the definition of an eligible foster child for purposes of the earned income credit: Effective—lyba 12/31/99; 2000—2; 2001—36; 2002—38; 2003—38; 2004—39; 2005—40; 2006—41; 2007—42; 2008—43; 2009—43; 2000—4—153; 2000—09—362.

<sup>2</sup> For expenses incurred after 6/30/99 and before 10/1/00, credit cannot be claimed until after 9/30/00. For expenses incurred after 9/30/00 and before 10/1/01, credit cannot be claimed until after 9/30/01.

<sup>3</sup> Extension of credit effective for expenses incurred after 6/30/99; increase in AIC rates effective for taxable years beginning after 6/30/99; expansion of the credit to include U.S. possessions effective for expenditures paid or incurred beginning after 6/30/99.

<sup>4</sup> For wind and closed-loop biomass, provision applies to production from facilities placed in service after 6/30/99 and before 1/1/02; for poultry waste, provision applies to production from facilities placed in service after 12/31/99 and before 1/1/02.

<sup>5</sup> Estimate provided by the Congressional Budget Office.

<sup>6</sup> Loss of less than \$500,000.

<sup>7</sup> A special rule applies to the payment of the \$2.75 increase in the cover-over rate for periods before 10/1/00.

<sup>8</sup> Effective for rum imported into the United States after 6/30/99.

<sup>9</sup> Gain of less than \$500,000.

<sup>10</sup> Effective for transfers made after 2/8/99 and for premiums paid after the date of enactment.

<sup>11</sup> Effective 7/14/99 (except with respect to partnerships in existence on 7/14/99, the provision is effective 6/30/01).

Legend for "Effective" column: cba = courses beginning after; coia = cancellation of indebtedness after; da = distributions after; DOE = date of enactment; epdo/a = estimated payments due on or after; iso/a = installment sales on or after; sbda = sales beginning the day after; teio/a = transactions entered into on or after; tmi = transfers made in; lyba = taxable years beginning after; tybi = taxable years beginning in; wpoifbwa = wages paid or incurred for individuals beginning work after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

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BILL ARCHER,  
TOM BLILEY,  
DICK ARMEY,

*Managers on the Part of the House.*

W.V. ROTH, Jr.,  
TRENT LOTT,

*Managers on the Part of the Senate.*

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TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999—CONFERENCE REPORT—Continued

Mr. ROTH. Mr. President, I am pleased with the progress we have made in two very important areas on issues that will affect the lives of Americans everywhere. This legislation—the Ticket to Work and Work Incentives Improvement Act of 1999—will go a long way toward improving the quality of life for millions of Americans with disabilities. At the same time, important provisions within this legislation—provisions that extend important tax and trade relief provisions—will bring meaningful relief and increased opportunities to individuals and families. The Ticket to Work and Work Incentives Improvement Act will help Americans with disabilities live richer, more productive lives. Its core purpose is to assist disabled individuals in returning to work. It removes the real risk many people with disabilities face of losing their health insurance, and it provides new ways of helping them find and keep meaningful employment.

Is there any question how important this is?

Millions of Americans with disabilities are waiting for the vote. They are waiting to be freed from a disability system that stifles initiative and thwarts productivity rather than rewarding them—a system that tells individuals with disabilities that if they leave their homes and try to find productive employment they will lose their access to health insurance. The current system isn't right, Mr. President. It isn't productive. And it certainly is not ennobling.

Under current law, if a person with a disability wants to return to work—even taking a job with modest earnings—he or she will jeopardize access to insurance coverage through the Medicaid and Medicare programs. And as many individuals with disabilities have difficulties securing private sector insurance coverage, losing access to Medicaid or Medicare is not an option. In fact, it's a tragic consequence for many people with medical conditions that demand ongoing treatment. As a result, the only recourse these individuals have is to forego the opportunity to work—to build and grow professionally and personally—and to stay at home.

No one, Mr. President, should be forced to choose between health care

and employment. Robbing an individual of the opportunity to work becomes a double tragedy in the life of someone who is living with a disability. It's been said that work is the process by which dreams become realities. It is the process by which idle visions become dynamic achievements. Work spells the difference in the life of a man or woman. It stretches minds, utilizes skills and lifts us from mediocrity.

No one should have to choose between health care and work, and passage of the Work Incentives Improvement Act will make that choice unnecessary. By acting on this legislation today, the Senate will offer new promise to millions of Americans with disabilities. This legislation will help promote their independence and personal growth. It will help restore confidence and meaning in their lives—and greater security in the lives of their families.

But this legislation is not about big government. We do not tell the states what they must do. There are no mandates. And we do not tell individuals with disabilities what they must do. We create options. We create choices. And choice is the essence of independence, isn't it?

The unemployment rate among working-age adults with severe disabilities is nearly 75 percent. What a tragic consequence of errant public policy that discourages those who can and want to work from attaining their desires. It's my firm belief that this number will come down—it will come down dramatically as we pass this law allowing them to return to the workplace. My belief is based in part on the fact that over 300 groups of disability advocates, health care providers, and insurers endorse this change and are anxiously waiting for us to act.

These groups and individuals are not the only Americans watching what we do here today. Along with them, are countless others who are looking to this legislation to extend important tax and trade relief provisions that are included in the work incentives bill.

These provisions are "must do" business. Like appropriations, extenders are provisions that we have an obligation to address before we conclude this session. They are necessary fixes to our Tax Code, and will go a long way toward helping families and creating greater economic opportunity in our communities.

Among the important provisions contained in these extenders is one that excludes nonrefundable tax credits from the alternative minimum tax ("AMT"). This change alone will insure that middle-income families receive the benefits of the \$500 per child tax credit, the HOPE Scholarship credit, the Lifetime Learning credit, the adoption credit, and the dependent care tax credit. In this legislation, such relief is extended through December 31, 2002.

Another important provision in this legislation extends and expands the tax credit for production of energy from

wind and closed loop biomass. This important alternative energy provision expired on June 30, 1999. In this legislation, the tax credit is expanded to cover poultry litter-based biomass, and it is extended through December 31, 2001. For my home State of Delaware and many other poultry producing regions, this provision provides an important option for the disposition of poultry litter in a way that will be beneficial and productive.

Other important expiring tax provisions included in this legislation are a 5-year extension and enhancement of the research and development tax credit and the tax-free treatment of employer-provided educational assistance. I can't overstate how important the R&D credit is to the high-tech community and many other important leading American economic sectors. The extension offered in this legislation will give businesses the certainty they need and will result in more and higher paid jobs for American workers. And as far as employer-provided educational assistance, I've made it clear that my goal is to make this provision permanent and expand it to graduate education. I know this is an important goal for Senator MOYNIHAN as well. Over one million workers will benefit from this extension, and under this legislation, the provision is extended through the end of 2001 for undergraduate education.

But, Mr. President, important extenders do not stop here. This legislation will also extend incentives designed to help Americans move from welfare to work through the end of 2001. These incentives include the work opportunity tax credit and the welfare to work tax credit.

Other extenders include the active finance exception to Subpart F—a provision that puts our banks, insurance, and securities firms on equal footing with their foreign competitors in overseas markets—and five other important tax provisions that are scheduled to expire. These provisions, which are extended through the end of 2001, include the "brownfields" expanding treatment of environmental cleanup costs. In addition, the school repair and renovation costs of some school districts are met by an extension of the qualified zone academy bond program.

But the provisions included in this legislation are not limited to tax relief. We also include some important trade issues. For example, we extend the Generalized System of Preferences, as well as Trade Adjustment Assistance programs. Both of these trade provisions are extended through the end of 2001. Beyond these, there are several revenue raising provisions that we've included. Most of these, I am pleased to report, close loopholes in the Tax Code raising some \$3 billion in return.

When all is said and done with this legislation, Mr. President, I am pleased that the tax relief in this bill amounts to a net tax of \$15.8 billion over 5 years and \$18.4 billion over 10.

There's no question that what have before us is a dynamic piece of legislation. From providing hope and opportunity to Americans with disabilities to extending and expanding important tax provisions for individuals and families, this is a comprehensive package. It has been carefully constructed, debated, and addressed in conference. It include that efforts of many of our colleagues and countless hours of staff work.

I want to thank several Senators who have worked closely with me over the past year to bring the work incentives bill to the floor—Senators MOYNIHAN, JEFFORDS, KENNEDY, and BUNNING. Passage of the Work Incentives Improvement Act has been one of my top health care priorities during this Congress. It would have been impossible without close, productive, bipartisan cooperation. Likewise, the effort we've made to address the important tax and trade extenders. Without the work and cooperation of my distinguished friend and the Finance Committee's Ranking Democratic Member, Senator MOYNIHAN, we wouldn't be here today with a conference agreement.

In closing, let me also mention that there are two provisions in this bill outside the Finance Committee's jurisdiction, one dealing with the organ donor and the other dealing with a NOAA procurement matter. I ask my colleagues to join us in seeing that all of these important provisions are passed into law.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I do wish there were more Members present that we might rise in a general applause to the Senator from Delaware, chairman of the Finance Committee. I refer to him as our revered colleague. This legislation could not be here, most of it would not have been conceived, without him. It is a triumph against what has become our procedures that it is here today and will shortly be approved.

Millions of Americans who will not know that he has done this will benefit from what he has done, and that, for him, will be sufficient knowledge and reward. I want to say that.

I don't want to speak at length because other Senators wish to join in this matter. I simply make two points. One is how very much I appreciate the chairman's mention of the importance of providing employer education assistance for graduate students. Go to any major metropolis in this country, any area where there is a college, and find night schools where young America and not so young come to acquire further skills and greater economic capacity.

Nothing could be more clearly in our national interests. It will go on whether we have a tax credit or not, but on the margins, it is important, first, recognizing the need for new skills, recognizing the need for developing new

areas. Send our own employees to graduate school. Let them get this further degree while they are on the job, come back, be promoted, earn more, and be more valuable.

I spoke with our friend, the House majority leader, Mr. ARMEY. Of course he is a distinguished economist. He noted the last 5 years he was teaching, he was teaching at night school and teaching people who wanted to be there. They didn't have to be there to play soccer—put it that way.

I would secondly like to note, and I know the chairman would agree, absent from our measure today are two matters reported from the Committee on Finance: The Africa Growth and Opportunity Act of 1999 and the Caribbean Basin Initiative. They came out of the Finance Committee as near matter unanimous as can be—under our chairman, things come out of our committee unanimous. We did not succeed given the complexities of these negotiations this time. We will be back. I hope these matters will be addressed. I know on our side of the aisle, if you will, in the House, Representative Rangel, the ranking member in Ways and Means, my counterpart, very much hopes this will happen, and so do I.

Mr. President, I would briefly note, for the RECORD, some important provision in this legislation.

With regard to tax extenders, this bill extends the research and experimentation credit for five years and it extends all other provisions through December 31, 2001. Extending these provisions as long as possible was simply the right thing to do—providing certainty to employers and workers.

Might I add that some of these provisions are vitally important to working families. If we do not, for instance, pass the alternative minimum tax provision, approximately 1.1 million Americans will lose part or all of the \$500 child credit, the HOPE scholarship credit, or other non-refundable credits. We also, rightfully so, extend the Welfare-to-work and the Work opportunity credits.

I would also like to clarify two matters with respect to a provision based on S. 213, which I introduced on January 19, 1999—and which is known as the rum cover-over provision. I am very pleased that we were able to increase from \$10.50 to \$13.25 the amount of excise taxes on rum that is transferred to Puerto Rico and the Virgin Islands. Unfortunately, procedural obstacles required a delay in most of the transfer from fiscal year 2000 to fiscal year 2001. Instead, up to \$20 million will be transferred 15 days after enactment. The remainder of the amount will not, however, be transferred until after September 30, 2000. However, our distinguished Finance Committee Chairman, Senator ROTH, and Chairman ARCHER from the House Ways and Means Committee have made a commitment that, to the extend possible, the delayed payments will be accelerated, or interest on the delayed amounts will be pro-

vided for in the Africa and CBI legislation next year.

With respect to the second matter, the rum cover-over provision, as passed by this body on October 29, 1999, included an additional transfer of 50 cents from the government of Puerto Rico to the National Historic Conservation Trust of Puerto Rico—the purpose of which is the protection and enhancement of the natural resources of Puerto Rico. Unfortunately, the 50 cent transfer is not included in the legislation before us today. However, it is my understanding that the Governor of Puerto Rico, the Honorable Pedro Rossello, has made the commitment to transfer one-sixth (45 cents), of the increase provided by this legislation, to the Trust. I applaud the Governor for his commitment.

I am also very pleased that this legislation would remedy some of the barriers and disincentives that individuals enrolled in Federal disability programs face in returning to work. Many disabled Americans do not return to work because they must lose their health care coverage and because they have inadequate access to employment and rehabilitation services.

In 1986, we took our first step to remove obstacles facing disabled Americans who want to work. Our former Finance Committee Chairman and Majority Leader—Senator DOLE—introduced the Employment Opportunities for Disabled Americans Act to make permanent a demonstration project that enabled Supplemental Security Income—or "SSI" recipients to maintain Medicaid benefits during a transition to work. I was an original co-sponsor of the bill which was enacted on November 11, 1986. Building on that first step and other subsequent initiatives, Senators JEFFORDS, KENNEDY, ROTH and I introduced this work incentives bill in the Senate on January 28th of this year. The legislation has enjoyed overwhelming bipartisan support, passing the Senate 99-0 on June 16th and the House 412-9 on October 19.

The bill addresses an issue of paramount concern: how to encourage disabled individuals to return to work. Currently, less than one-half of one percent of individuals receiving disability benefits now leave the rolls and return to work. A survey by the National Organization on Disability found that only 29 percent of all disabled adults are employed full-time or part-time, compared to 79 percent of the non-disabled adult population. The disabled find it difficult to work because if they earn income above a certain level, they lose their disability benefits and their health care coverage. In fact, witnesses testifying before the Finance Committee cited the potential loss of health care coverage as the primary obstacle between the disabled and their ability to work.

This legislation tries to remove this barrier by guaranteeing that working individuals with disabilities can maintain their Medicare and Medicaid coverage for a longer period of time. Under



current law, Social Security disability beneficiaries, who go back to work and earn a modest income, may only continue their Medicare coverage for four years. This legislation would permit disabled workers to retain their Medicare coverage for an additional four and a half years.

Two important Medicaid provisions are included in this bill. The first would permit more lower-income disabled workers to pay premiums and buy into the Medicaid program. The second establishes a demonstration project that would provide Medicaid coverage to persons likely to become disabled without medical treatment. This is good common-sense policy: providing preventive health coverage to working individuals with serious medical conditions before such conditions worsen to a disabling level.

This legislation does more than just extend greater health care coverage to the disabled. Through a program called "Ticket to Work," it would make it easier for disabled workers to access coordinated vocational rehabilitation and employment assistance services. It provides grants to States to develop the program infrastructure and to perform the outreach necessary to help disabled individuals to work. The legislation would also ensure that a mere return to work does not automatically trigger eligibility reviews that could result in being removed from the disability rolls. In addition, it would streamline the process for individuals to be reinstated for disability benefits, if they are unable to continue working.

Lastly, the bill funds Social Security demonstration projects on how best to encourage disabled individuals to return to work. For example, one innovative project will determine whether a sliding-scale reduction of disability benefits by \$1 for every \$2 earned would make it easier to go back to work. Such a result seems far more reasonable than the current situation where workers who earn income above a statutory limit lose their disability benefits entirely.

The overwhelming support for his legislation is not surprising given its simple and universal goal: providing disabled Americans the opportunity they deserve to work and contribute to the fullest of their ability. For Americans with disabilities, enacting this legislation would take a great step forward in removing the many barriers they face in returning to work.

Before I conclude, Mr. President, I did want to mention that regrettably, this bill includes an extraneous provision delaying implementation of a new regulation to improve the Nation's system of allocating human organs for transplant.

Mr. President, I thank the Chairman for his commitment to this tax extenders and work incentive legislation. I would also like to thank the staffs of the Joint Committee on Taxation, the Senate Finance Committee and the House Way and Means and Commerce Committees. Now, let's go home.

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. May the Chair ascertain how many minutes?

Mr. ROTH. I yield 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from Vermont is recognized for 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, first I ask unanimous consent Lu Zeph and Tom Valuck, fellows on my staff, be granted the privilege of the floor during consideration of the conference report.

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

Mr. JEFFORDS. Mr. President, I see the Senator from Iowa, with whom I have worked all these years, was here just a moment ago. I would like to wish him a happy 60th birthday. I am sure all of us would like to join in that, and I will move on now and get to the purpose of being here today.

Mr. President, I am thrilled that the Senate will soon send to the President the Work Incentives Improvement Act of 1999. This landmark legislation will open doors to jobs across the country for disabled Americans.

As we all know, the Federal Government often sets policies with the best of intentions, and the least of common sense. There are lots of examples, but today's policy for disability benefits takes the prize.

If you are disabled and don't work, you have access to federally funded health care. If you are disabled and you do work, you lose access to federally funded health care. Does it make any sense to you? No, it does not to me, either.

Access to health care is important to everyone, of course, but to severely disabled people it is absolutely vital for the everyday needs of life. And the price tag for this care can be astronomical.

Three years ago, this paradox was brought to my attention, and I began the process of trying to figure out how we could solve it.

I realized that, unless and until we gave individuals with disabilities access to health care, they would not, could not work to their full potential. That is why I am so proud that we are on the verge of changing the law that will, at last, change the lives of 9.5 million individuals with disabilities who have been waiting, pleading that we take this step.

These millions of Americans want and will use the job training and job placement assistance that this legislation authorizes. They will benefit from the advice and guidance that will be available on the complicated work incentives options in Federal law. They will go to work, work longer hours, work more hours, and seek advancement knowing that their health care will be there when they need it.

For those who look beyond what this legislation means in human terms, to its monetary applications, I say, you

will see results. The taxpayer rolls will expand. Use of Federal and State public assistance programs will decrease. Data on the health care needs and costs of working individuals with severe disabilities will be collected. Private employers and their insurers will have data from which they may calculate risks and craft health care insurance options for employees with disabilities.

This conference report represents sound federal policy. Last night our colleagues in the House, on a vote of 418 to 2, endorsed this policy. We must do the same. Let us celebrate and confirm the consensus we have achieved. Individuals with disabilities are waiting to show us how they are ready, willing, and able to join the workforce, support their families, and contribute to their communities and our national economy.

The action we are taking is the next logical step in our efforts to ensure that disabled Americans can fully participate in our society. In 1975 we guaranteed each child with a disability a free appropriate education through the precursor to the Individuals with Disabilities Education Act. In 1978, we prohibited discrimination based on disability in all services, programs, and employment offered by or through the federal government. In 1988, for the first time, we recognized and addressed the need to provide assistive technology to individuals with disabilities.

And in 1990, we enacted the most comprehensive civil rights law for individuals with disabilities, the Americans with Disabilities Act.

Each of these actions was a building block toward true independence for individuals with disabilities.

But the promise of employment rights under the ADA was an empty one for millions of Americans who couldn't afford to take advantage of their rights. Today, we are making good on that promise.

I want to again commend the principal cosponsors of this legislation, Senators KENNEDY, ROTH, and MOYNIHAN for their incredible contributions. Five months ago, the four of us joined President Clinton in a room just off the Senate floor to call for enactment of this legislation.

I was confident then that the day would soon come, and I am elated that it finally has. It is the end of the session, we are all tired, and some tempers are frayed. But Mr. President, as we conclude our work for the year and return to our states, this is one accomplishment of which we can all be proud.

The PRESIDING OFFICER. Who yields time?

The distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I have the pleasure to yield up to 15 minutes to my good and old friend, the senior Senator from Massachusetts, who has been so instrumental in this matter.

The PRESIDING OFFICER. The distinguished Senator from Massachusetts is recognized for up to 15 minutes.

Mr. KENNEDY. Mr. President, I join with Senator MOYNIHAN and Senator ROTH in commending our colleagues on the Finance Committee for their strong work in helping bring us to where we are today. I thank them for their leadership.

I would especially like to acknowledge Senator JEFFORDS, who has been instrumental in the development of the legislation. And I, all of us on this side and throughout the Senate and across the country always recognize the real leader on all of the disability issues, our friend from Iowa, Senator HARKIN, who has had a lifetime of commitment on the issues of promoting the interests of disabled Americans. The Senate will welcome his comments this afternoon.

Today, Congress will complete action on the Ticket to Work and the Work Incentives Improvement Act, and this important legislation will go at long last to the White House. When President Clinton signs this bill into law, he will truly be signing a modern Declaration of Independence for millions of men and women with disabilities in communities across the country who will have a priceless new opportunity to fulfill their hopes and dreams of living independent and productive lives.

We know how far we have come in the ongoing battle over many decades to ensure that people with disabilities have the independence they need to be participating members of their communities.

Mr. President, 67 years ago this month we elected a disabled American to the highest office in the land. He became one of the greatest Presidents, but Franklin Roosevelt was compelled by the prevailing attitudes of his time to conceal his disability as much as possible. The World War II Generation began to change all that. The 1950s showed the Nation a new class of people—people with disabilities—as veterans returned from the war to an inaccessible society. Each decade since then has brought significant progress.

In the 1960s, Congress responded with new architectural standards so we could build a society of which everyone could be a part.

The 1970s convinced us that full participation in society was needed, not only for disabled veterans but for disabled children and family members and for those injured in everyday accidents. Congress responded with a range of federally funded programs which improved the lives of people with mental retardation, supported the rights of children with disabilities to go to school, ensured the right of people with disabilities to vote, and gave people with disabilities greater access to health care.

The 1980s brought a new realization that when we are talking about assisting people with disabilities, we must not look only to Federal programs, but to the private sector as well. Congress again responded by guaranteeing fair housing opportunities for people with disabilities, by ensuring access to air

travel, and making telecommunication advances available for people who are hard of hearing or deaf.

The 1990s brought us the Americans with Disabilities Act, which promised every disabled citizen a new and better life, in which disability would no longer put an end to the American dream.

But too often, for too many Americans, the promise of the ADA has been unfulfilled. Now, with this legislation, we will finally link civil rights clearly with health care. It isn't civil and it isn't right to send a person to work without the health care they need and deserve.

As Bob Dole stated in his eloquent testimony to the Finance Committee earlier this year, this issue is about people going to work—"it is about dignity and opportunity and all the things we talk about, when we talk about being an American."

Millions of disabled men and women in this country want to work and are able to work. But they have been denied the opportunity to work because they lack access to needed health care. As result, the Nation has been denied their talents and their contributions to our communities.

Current laws are an anachronism. Modern medicine and modern technology make it easier than ever before for disabled persons to have productive lives and careers. Current laws are often a greater obstacle to that goal than their disability itself. It's ridiculous that we punish disabled persons who dare to take a job by penalizing them financially, by taking away their health insurance lifeline, and by placing other unfair obstacles in their path.

Currently, there are approximately 9 million working-age adults who receive disability benefits, many of whom could take jobs if they could keep their governmentally financed health benefits. A national survey earlier this year showed that, while 76 percent of people with disabilities wanted to work, nearly 75 percent are unemployed. Of those receiving benefits, only 1/2 of 1% leave the disability roles to return to work.

Disability groups have estimated that about 2 million of the 8 million would consider forgoing disability payments and take jobs as a result of this legislation.

The estimated cost of this new program would be recouped if only 70,000 people leave the disability benefit roles. If 210,000 of them take jobs, the government would actually save \$1 billion annually in disability payments.

That 210,000 constitutes only 10% of the number of people who the disability community believe will avail themselves of this program. If their estimates are even close to accurate, the savings to the Federal Government could eventually approach \$10 billion per year. Far more important than the savings is the impact on people's lives. It is about dignity. It is about opportunity that is by far the most important charge.

Today is a new beginning for persons with disabilities in their pursuit of the American dream. This bill corrects the injustice they have unfairly suffered.

The Work Incentives Improvement Act removes these unfair barriers to work that face so many Americans with disabilities:

It makes health insurance available and affordable when a disabled person goes to work, or develops a significant disability while working.

It gives people with disabilities greater access to the services they need to become successfully employed.

It phases out the loss of cash benefits as income rises, instead of the unfair sudden cut-off that workers with disabilities face today.

It places work incentive planners in communities, rather than in bureaucracies, to help workers with disabilities learn how to obtain the employment services and support they need.

Many leaders in communities throughout the country have worked long and hard and well to help us reach this milestone. They are consumers, family members, citizens, and advocates. They showed us how current job programs for people with disabilities are failing them and forcing them into poverty.

In all the time I have been in the Senate, I doubt if there has really been a single piece of legislation that has so coherently reflected the common concerns of a constituency and all of that constituency worked so effectively on recommendations to the Congress of the United States.

We have worked together for many months to develop effective ways to right these wrongs. And to all of them I say, thank you for helping us to achieve this needed legislation. It truly represents legislation of the people, by the people and for the people. It is all of you who have been the fearless, tireless warriors for justice.

When we think of citizens with disabilities, we tend to think of men and women and children who are disabled from birth. But fewer than 15% of all people with disabilities are born with their disabilities. A bicycle accident or a serious fall or a serious illness can suddenly disable the healthiest and most physically able person.

In the long run, this legislation may be more important than any other action we have taken in this Congress.

I say that very sincerely. In the long run, this legislation may be the most important piece of legislation we have passed in this Congress. Its offers a new and better life to large numbers of our fellow citizens. Disability need no longer end the American dream. That was the promise of the Americans with Disabilities Act a decade ago, and this legislation dramatically strengthens our fulfillment of that promise.

This bill has a human face. It is for Alice in Oklahoma, who was disabled because of multiple sclerosis and receives SSDI benefits. She will now be able to get personal assistance to work

and live in here community. No longer will she have to use all of her savings and half of her wages to pay for personal assistance and prescription drugs. No longer will she be left in poverty.

This bill is for Tammy in Indiana, who has cerebral palsy and uses a wheelchair and works part-time at Wal-Mart. No longer will she be forced to restrict her hours of work. Her goals of becoming a productive citizen will no longer be denied—because now she will have access to the health care she needs.

This bill is for Abby in Massachusetts, who is six years old and has mental retardation. Her parents are very concerned about her future. Already, she has been denied coverage by two health insurance firms because of the diagnosis is of mental retardation. Without Medicaid, her parents would be bankrupted by her current medical bills. Now when Abby enters the work force, she will not have to live in poverty or lose her Medicaid coverage. All that will change, and she will have a fair opportunity to work and prosper.

This bill is for many other citizens whose stories are told in this diary, called "A Day in the Life of a Person with a Disability."

Disabled people are not unable. Our goal in this legislation is to banish the stereotypes, to reform and improve existing disability programs, so that they genuinely encourage and support every disabled person's dream to work and live independently, and be a productive and contributing member of their community. That goal should be the birthright of all Americans—and with this legislation, we are taking a giant step toward that goal.

A story from the debate on the Americans with Disabilities Act illustrates the point. A postmaster in a town was told that he must make his post office accessible. The building had 20 steep steps leading up to a revolving door at the only entrance. The postmaster questioned the need to make such costly repairs. He said, "I've been here for thirty-five years, and in all that time, I've yet to see a single customer come in here in a wheelchair." As the Americans with Disabilities Act has proved so well, if you build the ramp, they will come, and they will find their field of dreams. This bill builds new ramps, and vast numbers of the disabled will now come—to work.

The road to economic prosperity and the right to a decent wage must be more accessible to all Americans—no matter how many steps stand in the way. That is our goal in this legislation. It is the right thing to do, and it is the cost effective thing to do. And now we are finally doing it.

Eliminating these barriers to work will help disabled Americans to achieve self-sufficiency. We are a better and stronger and fairer country when we open the door of opportunity to all Americans, and enable them to be equal partners in the American dream.

For millions of Americans with disabilities, this bill is a declaration of independence that can make the American dream come true. Now, when we say "equal opportunity for all," it will be clear that we mean all.

No one in America should lose their medial coverage—which can mean the difference between life and death—if they go to work. No one in this country should have to choose between buying a decent meal and buying the medication they need.

Nearly a year ago, President Clinton signed an executive order to increase employment and health care coverage for people with disabilities. Today, with strong bipartisan support, Congress is demonstrating its commitment to our fellow disabled citizens. But our work is far from done.

This bill is only the first step in the major reform of the Social Security disability programs that will enable individuals with disabilities to have the rights and privileges that all other Americans enjoy; 54 million Americans with disabilities are waiting for our action. We will not stop today, we will not stop tomorrow, we will not ever stop until America works for all Americans.

Mr. President, in these final moments, I especially commend President Clinton, Vice President Gore, and Secretary Shalala. President Clinton made this one of his top priorities over this year and during these final negotiations. He understands the importance of this legislation, and this was a matter of central importance to him and his Presidency.

I also thank John Podesta and Chris Jennings who saw this through to the very end.

I commend the many Senate staff members whose skilled assistance contributed so much to the achievement: Jennifer Baxendale, Alec Vachon, and Frank Polk of Senator ROTH's staff; Kristin Testa, John Resnick, Edwin Park, and David Podoff of Senator MOYNIHAN's staff; Pat Morrissey, Lu Zeph, Chris Crowley, Jim Downing, and Mark Powden of Senator JEFFORDS' staff; Connie Garner—a special thanks to Connie Garner—Jim Manley, Jonathan Press, Jeffrey Teitz, and Michael Myers of my own staff; and the many other staff members of the Health Committee and the Finance Committee.

No longer will disabled Americans be left out and left behind. The Ticket to Work and the Work Incentives Improvement Act of 1999 is an act of courage, an act of community, and, above all, an act of hope for the future. I urge its passage, and I reserve the remainder of the time of the Senator from New York.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Delaware.

Mr. ROTH. Mr. President, I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Thank you very much, I say to Senator ROTH.

I might say, on the bill that we are speaking to, the Ticket to Work and Work Incentives Improvement Act, I do not know how many Senators have ever had a disabled person who is holding a job and getting a paycheck. Come and see them. A disabled person who is holding a job and just got a paycheck—and you get to visit with them—they are glowing. They are filled with pride that they are able to work. Actually, it is the best therapy in the world for a disabled person to have a job.

I happen to know that from personal experience in my own family. But I have seen it in scores of faces of people who come and tell me as disabled people that they are working and they are getting a paycheck.

The U.S. Government, probably because it did not understand what it was doing, decided that we would help disabled people who were not working with health insurance, either under Medicare or Medicaid. Then what a cruel hoax, as soon as they started working and making sufficient money, as low as \$700 a month, they started losing their health care coverage, and they began to wonder and their parents began to wonder, why did they ever take a job?

For some, they did not even make any net profit out of getting a job. Because if they are cut off from health care, some of them have to pay their entire paycheck to take care of their illness. That is just not right. Frankly, it was a hard issue in terms of drafting something that could work, and I compliment everybody that worked on this bill. I think it is a very important day today.

In fact, I am sorry it is getting passed along with a great deal of other legislation because the importance of it might very well get lost. Sometimes a long debate on a bill is meritorious, for the country finds out what we are doing. They are not necessarily going to find out about this bill because we did not use a lot of time today. But I asked the distinguished chairman if I could use a few moments and he gave it to me. Now, if the Senate would bear with me, I just want to take the remaining time I have, and how much is that?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

#### THE BUDGET

Mr. DOMENICI. I am going to take a few moments to thank a few people and summarize the budget bill that we are going to pass this evening, hopefully.

I want to thank the White House for their cooperation in coming to an agreement with reference to the appropriations bill and all of those things that are in the so-called omnibus package.

In particular, I want to thank the director of the Office of Management and Budget, Mr. Lew. The last evening

understand what we were doing, and worked with us. He now is a budget expert. That is good. From time to time, I am very glad we can take matters into his office and he understands it thoroughly.

With that, I yield the floor.

**TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999—CONFERENCE REPORT—Continued**

**PRIVILEGE OF THE FLOOR**

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Kyle Kinner, a presidential management intern with the Finance Committee minority staff, be granted the privilege of the floor during the consideration of this conference report.

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

Mr. MOYNIHAN. I have the great pleasure to yield 5 minutes to my friend from Illinois, Senator DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DURBIN. I salute Senator ROTH, Senator MOYNIHAN, Senator KENNEDY, Senator JEFFORDS, Senator HARKIN, and others who worked so hard on this Work Incentives Improvement Act.

A close friend of my family had a son who was mentally ill. This young man wanted more than anything to go to work. He knew if he did so, he would lose the protection of health insurance. So he was held back from that opportunity. I don't believe he was better for that. I don't believe America was better for that.

This bill addresses that challenge and says that as the disabled go to work, they will still be able to use Medicaid and Medicare to protect themselves with health insurance even as they earn some income. That is only just. It opens up an opportunity that currently is not there. I am happy to be a supporter of this legislation. I look forward to voting for it when it comes to the floor.

There is some reservation in my mind about the bill that is before us, not because of the provision I just mentioned, nor because of the extension of certain tax credits and benefits, but, rather, because of the language in this bill relating to organ donation.

This is the challenge we face in America. If you are an American grievously ill, in need of an organ transplant, your chances of survival depend more than anything on your address and how much money you have. You could be the most seriously ill person in some State in this Union and be overlooked and bypassed in favor of another patient in another State who is not as seriously ill and might be able to wait. That needs to change. That is certainly not a fair or American way.

The rules we are trying to promulgate to make that change have been the source of great controversy on Capitol Hill. It is sad when it comes to a

point where Members of the House and Senate are deeply involved in a debate over the availability of organs for donation to those who need a transplant to live.

In my State of Illinois, over the last 3 years, 97 people have died waiting for organ transplants at the University of Chicago. I see my colleague from the State of Pennsylvania, Senator SANTORUM, where 187 people died waiting at the University of Pittsburgh. My colleagues, Senator MOYNIHAN and Senator SCHUMER, know that 99 people died waiting at Mount Sinai in New York. In the last week alone, two people have died at one of the Chicago transplant centers because an organ did not become available.

If you are an American who needs a liver transplant to survive and you live in the following States, you have much less chance of receiving the transplant: Arizona, California, Colorado, Connecticut, Illinois, Massachusetts, Maryland, Michigan, New York, or Pennsylvania.

This is not a fair system. It is a system which cries out for justice and one that cries out for the politicians to step aside. Let the medical community find the best and most efficient way organs can move to the people who need them to live, instead of getting caught up in some special interest tangle here or political dogfight. It is sad that we are now in a situation on this bill where we have not resolved this contentious issue. I sincerely hope all parties will come together, and soon, to make certain that changes are made to make the system fairer. We know, by the people we represent, that this is literally a life-or-death argument.

Kathryn Krivy lives in Chicago. She runs the wellness clinic at the Northwestern Memorial Hospital. She is desperately in need of a new liver. She has developed primary biliary cirrhosis, a very rare autoimmune disease that is incurable. She has been on the transplant list in Chicago for over 2 years, but currently, because of the delay, she has decided to sign up at the Mayo Clinic in Minnesota because it is much more likely she can receive a transplant in a shorter period of time. She has the knowledge and the resources to make that decision, but many of the poorer people in America waiting for an organ transplant do not have that luxury.

We should not reach the point in America where something as basic as the gift of life, an organ donation, depends on your home address. That is exactly what has occurred. An estimated 66,000 potential organ recipients are waiting their turn. Only 20,000 will see an organ transplant this year. Nearly, 5,000 Americans will die each year, at least 13 every day, while awaiting organ transplants. Of those, it is estimated that 300 to 1,000 Americans, maybe up to 3 a day, might be spared if this system were fairer and were revised. Unfortunately, that is not the case.

Though this is an excellent bill which I support, I believe it is a sad commentary that we have reached this state of affairs. I hope in the next session of Congress we can bring justice to organ donation.

I yield the floor.

Mr. ASHCROFT. Mr. President, today the United States Senate completes its business for calendar year 1999 by passing two important bills: H.R. 3194—the final spending bill, and H.R. 1180—the Work Incentives Act, which provides new opportunities for disabled individuals to enter the work force and includes \$18 billion dollars in tax cuts. I am pleased to announce my support for both these bills.

The Chairman of the Senate Budget Committee has eloquently explained how this budget agreement keeps faith with the Republican pledge that no Social Security trust fund monies be used to pay for other government programs.

Last year, for the first since 1960—during the Eisenhower Administration—we balanced the budget without counting the Social Security surplus. Mr. President, for the first time in 39 years the government did not divert money from the Social Security Trust Fund to pay for other programs.

As a result of the spending plan pursued by this Republican Congress, which called for protection of Social Security, increased spending on education and defense, and reduction of the national debt, we have begun to put our fiscal House in order.

When I was elected to this body in 1994, the incoming 104th Congress inherited a projected four-year budget deficit of \$906 billion. Now, through the hard work and discipline of this Congress, the tables have turned. That actual four-year period produced a net budget surplus of \$63 billion—a turnaround of \$969 billion, just a shade under a trillion dollars. With the passage of the final FY 2000 appropriations bill, we will continue on that path, reducing our national debt by \$140 billion dollars in the current fiscal year.

Unlike last year's omnibus appropriations package that increased spending by almost \$14 billion, this Congress successfully obtained offsets for all of the President's new spending, including an across-the-board cut that will help eliminate government waste and excess. In addition, despite President Clinton's best efforts, the offsets do not include a tax increase.

At the beginning of this year, I said that the Congress' primary responsibility was to protect the Social Security surplus. With the passage of this budget, we have accomplished that goal. In addition, not only have we avoided a tax hike, but we have also given the American people an \$18 billion tax cut through the provisions contained in H.R. 1180—the Work Incentives Act.

I am pleased that the final bill includes over \$2 billion in additional education spending over last year and gives local school districts more flexibility in how they spend that federal

assistance. The appropriations bill also contains an increase of \$1.7 billion for veterans spending above President Clinton's request, as well as an increase in funding for national defense that includes a boost in pay and benefits for our soldiers, sailors, and airmen.

But this bill does not just fund these important priorities, it also provides real cuts in government waste and abuse. The legislation includes a 0.38% across the board reduction that is essential to maintaining our fiscal discipline and protecting Social Security.

Included in this package are provisions to address some unintended consequences of the Balanced Budget Act of 1997 to protect Medicare recipients and providers. This bill includes \$16 billion over 5 years to ensure that senior citizens can continue to receive quality health care.

These Medicare changes will help Medicare patients in hospitals—particularly rural, teaching, and cancer hospitals—skilled nursing facility residents, home health care recipients, and seniors who wish to receive their health care through the innovative Medicare+Choice program rather than through the conventional fee-for-service mechanism. I have traveled around Missouri and heard from countless doctors, patients, nurses, and other health care providers about the necessity of these changes. These provisions are good for the seniors in Missouri and across the Nation.

The package also provides for State Department Reauthorization, including language I authored that requires the State Department to publish a report documenting American victims of terrorist attacks in Israel, Gaza, and the West Bank.

In addition, the almost 400,000 Missouri households that are satellite television viewers will be pleased that this bill includes language that will allow them to continue receiving local programming. The Satellite Home Viewer Act will give real price competition and choice in video programming to all Missourians.

Finally, Mr. President, I am pleased that unlike last year, when we lumped all the bills together, allowing \$14 billion in extra spending into one package, this year we finished our work on each of the bills, and negotiated each bill on its individual merits. While this bill is an omnibus package for procedural reasons, it was not negotiated as an omnibus package. Every provision was negotiated according to regular order, and as a result, we were able to succeed in our goal of protecting Social Security.

Mr. WELLSTONE. Mr. President, I rise to support this conference report and I say, Mr. President, that I am very happy to have been an original cosponsor of the Work Incentives Improvement Act of 1999.

People all across Minnesota who have contacted my office know the importance of the Work Incentives Improve-

ment Act and how it will further expand the possibilities opened up by the Americans with Disabilities Act which was enacted in 1990. Thanks to the ADA, many people with disabilities in Minnesota and around the country are working, but others still cannot accept jobs because they would lose their health care coverage. This Act will allow them to fulfill their dreams for employment and to be productive citizens.

This legislation has enjoyed overwhelming bipartisan support—with 79 Senate cosponsors. It would make it easier for those receiving disability benefits through Social Security programs to go to work without losing their Medicare or Medicaid health benefits. The legislation also encourages the disabled to seek paid employment by gradually reducing their cash benefits as income increases, rather than cutting them off completely.

Let's look at the current situation for disabled individuals who seek employment and require health insurance coverage. For some of these people, employer-based coverage is unavailable because they are self-employed or because their disabilities prevent them from working full-time. For others, coverage is unaffordable because of copays and co-insurance for repeated, ongoing treatments. For those offered affordable employer insurance, these plans generally cover only primary and acute care, not the specialized medications, equipment, supplies and other long term care needs that individuals with disabilities unfortunately require.

Last year, in the Spring of 1998, the Minnesota Consortium for Citizens with Disabilities surveyed 1200 Minnesotans who have disabilities and found the vast majority were ready to go to work if their current health care benefits remained intact.

Here are two examples from Minnesota:

Let me tell my colleagues about Steve. Steve is a middle-aged adult with advanced Limb Girdle Muscular Dystrophy. He is married, has two grown children, and owns his own home in rural Minnesota. As the manifestations of his condition progressively worsen, Steve has struggled to remain self-sufficient as long as possible using all of his personal resources. Steve's desire to remain an independent contributing member of society is evident in his efforts to develop the skills that enable him to work from home in a computer-based business. Steve is on SSDI making him eligible for Medical Assistance that pays for his health care needs. He is growing weaker and cannot afford to lose his medical assistance eligibility. Steve has a fledgling publishing business; ghost-writing and copy-writing. He crafts sales ads and creates direct mail advertising packages. Steve uses the Internet to market his services. He uses his website as a forum for other authors to advertise their books. He sells space as one would a classified ad. Steve is be-

coming involved with e-bay auctioning focusing on books—first editions and autographed copies. Steve says the Work Incentives Improvement Act is his only opportunity to become financially independent. "If a person in my position is at risk for all of the medical expenses that one could incur, that is a big incentive not to try to get ahead. I still have my pride, my ego, the desire to rise above."

Another Minnesotan whose story I would like to tell is Jean. Jean is in her mid-forties and has had Charcot-Marie-Tooth Disease since early childhood. Her muscles have wasted away from her elbows to her finger tips and from her thighs to her toes. She has trunk weakness and uses a power wheelchair for mobility. Jean works in an office as a clerk-typist using a pencil held between her two hands to strike the computer keys and a trackball to navigate her computer. Jean's career is limited by not being able to accept raises, declining wage rewards for the continuing education and skills she has gained, because if she accepted these well deserved raises, she would exceed Supplemental Security Income's (SSI) earnings threshold of just \$500/month and lose her eligibility for medical assistance. "It just seems unfair that people with disabilities don't have the same opportunities to advance in their careers. Why can't we earn enough money to live in a house? To purchase a van with a lift? To travel?"

These are but two of the thousands of disabled Americans who, with guaranteed continued health care coverage—coverage they already have—would be able to lead more productive lives, productive for themselves, for their families and for their communities. In my state there are not enough workers to meet the needs of Minnesota employers, and I know it is also the case in many communities around the country. According to the Disability Institute, in 7 years Minnesota will need 1 million new workers. The Work Incentives Improvement Act will help match the needs of Minnesota's disabled community with Minnesota employers. That is what I call a real win-win situation.

When President Bush signed the Americans with Disability Act in 1990, he noted that when you add together all the state, federal, local and private funds, it costs almost \$200 billion annually to support people with disabilities—to keep them dependent. The ADA was the first giant step forward to allow Americans with disabilities to be independent. The Work Incentives Improvement Act of 1999 which we have before us today is another giant step along the same path, and today I am happy to say that we will be taking that step.

Mr. FRIST. Mr. President, yesterday, the House and Senate Conference Committee reached agreement on the Ticket to Work and Work Incentives Improvement Act of 1999, which addresses

a fundamental inequity for individuals with disabilities.

As a heart and lung transplant surgeon, I witnessed unfair discrimination against patients with disabilities. After a successful transplant, several of my patients were faced with a serious dilemma. They had to choose between keeping their health insurance coverage or returning to work. Under current law, if these patients choose to return to work and earn more than \$500 per month, they lose their disability payments and health care coverage provided through Medicare and Medicaid as part of their Social Security Disability Insurance (SSDI). This is health care coverage that they simply cannot get in the private sector, as it is extremely difficult for individuals with severe disabilities to obtain coverage due to their medical history.

Let me illustrate the profound impact this dilemma has had on our disabled Americans. Today, the unemployment rate among working-age adults with disabilities is nearly 75 percent. Only 7% of disabled Americans—318,728 of the 4.2 million non-blind individuals with disabilities—were working in 1997, according to the General Accounting Office. Many persons with disabilities who currently receive federal disability benefits, such as SSDI and Supplemental Security Income (SSI), want to work; however, less than one-half of one percent of these beneficiaries successfully forego disability benefits and become self-sufficient. If disabled individuals try to work and increase their income, they lose their disability cash benefits and their health care coverage. The loss of these benefits is simply too powerful of a disincentive to return to work.

In addition, more than 7.5 million disabled Americans receive cash benefits from SSI and SSDI. Disability benefit spending for SSI and SSDI totals \$73 billion a year, making these disability programs the fourth largest entitlement expenditure in the federal government. If only one percent—or 75,000—of the 7.5 million disabled adults were to become employed, federal savings in disability benefits would total \$3.5 billion over the lifetime of the beneficiaries. Removing barriers to work is not only a major benefit to disabled Americans in their pursuit of self-sufficiency, but it also contributes to preserving the Social Security Trust Fund.

This legislation is critical to the health and well-being of our disabled Americans. It will create new opportunities for individuals with disabilities to return to work while allowing them to maintain their health insurance coverage and disability benefits. In particular, this bill expands new options to states under the Medicaid program for workers with disabilities; continues Medicare coverage for working individuals with disabilities; and establishes a ticket to work and self-sufficiency program.

I would like to thank Senator JEFFORDS for his leadership on this critical

issue. I would also like to thank Senators LOTT, ROTH, MOYNIHAN and KENNEDY and their House colleagues for their dedication toward reaching consensus on this important legislation.

Mr. KOHL. Mr. President, I rise today in support of the Work Incentives Conference Report. As my colleagues know, this conference report contains a number of items that have been joined together in order to accommodate the end of session schedule, and I would like to offer brief comments on several of those items.

With regard to the tax portion of the conference report, I am in support of the compromise that was reached to extend the expired tax credits. Earlier this year, I supported an ambitious tax relief package which extended the credits and contained my child care tax credit and farmer income averaging relief provisions, as well as targeted tax measures to help Americans pay for education and health care and to expand the low-income housing tax credit. Hardworking American taxpayers created the budget surplus, and a significant portion of that surplus should be returned to them, allowing them to keep more of their own paychecks and helping them plan for their future. It is my hope that when we return in the spring, we will rise above partisan concerns and achieve bipartisan progress towards comprehensive tax relief, as well as the challenge of reforming both Medicare and Social Security. And we must do so while continuing our vigilance in protecting the balanced budget gains of recent years.

But for today we will content ourselves with the limited extenders package before us. The research and development tax credit promotes innovation and enhances the competitiveness of American business. The work opportunity and welfare-to-work tax credits continue the partnership between the public and private sector to move those in need of a helping hand off of public assistance and into the workforce. I am also pleased that this tax package preserves eligibility to important tax benefits, such as the child tax credit, by protecting against the encroachment of the alternative minimum tax. While I am concerned that the conferees did not offset fully the costs of these provisions and would have preferred a final version along the lines of the bipartisan, and fully offset, Senate bill, this package is modest and urgently needed. It deserves our endorsement.

I am extremely pleased that we are finally taking the final step to enact the Work Incentives Improvement Act into law. I cosponsored this legislation because I believe strongly that it will have a tremendous impact on the lives of people with disabilities.

Currently, over 9 million people receive disability benefits through the SSDI and SSI programs. Only 1/2 of 1 percent of SSDI beneficiaries, and only 1 percent of SSI beneficiaries ever return to work. Yet we know that many—in fact, the vast majority—of

people with disabilities want to work. In study after study, people with disabilities report that the single biggest obstacle to returning to work is the loss of health care benefits that often comes along with their decision to work. Many do not have access to employer-based health insurance and find policies in the individual insurance market prohibitively expensive. Therefore, disabled beneficiaries who want to work are faced with the choice of returning to work while risking their health benefits or forgoing work to maintain health coverage.

This is simply unacceptable. People with disabilities deserve every opportunity to live healthy, productive lives, and we should encourage and support their efforts to work by ensuring that they continue to have access to the health care services they need. I am pleased that the Work Incentives Improvement Act accomplishes that goal. This bill will ensure that millions of people with disabilities have the opportunity to work if they are able—without the fear of losing the health insurance coverage they need in order to live healthier lives and to succeed in their work. I want to commend the bipartisan efforts of Chairman ROTH, Senator MOYNIHAN, Chairman JEFFORDS, and Senator KENNEDY, in making this bill a reality.

Again, I regret that end-of-year pressure has forced us to combine so many unrelated provisions into a single bill. However, I support the conference report for the reasons I have just stated, and I urge my colleagues to vote for its adoption.

Mr. ALLARD. Mr. President, it is with great reluctance that I vote for the Work Incentives Act Conference Report.

A particular provision, Section 408, has been added to this important piece of legislation at a date too late to make further changes. Section 408 was introduced in the House, included in the Conference Report, but never debated in the Senate. I am a cosponsor of the Senate version of this bill.

In an effort to finish the first session of the 106th Congress we have had no time to sound our concerns and make due changes. Section 408 extends the authority of state medicaid fraud units. Not only would this provision mandate more federal control over what has been historically governed by the states, it also calls for investigation and prosecution of resident abuse in non-Medicaid board and care facilities. This provision allows the federal government unprecedented control over the quality of care in private institutions. This is yet another example of government authority exceeding its' boundaries. I have always been a supporter of state's rights and less government control and I feel these regulations are best promulgated by the states. Certainly they should not be promulgated in the final days of the session.

It is my opinion that we must reduce the amount of federal government regulation and not further impede the rights of care providers and state officials to monitor private industry. I make an effort to examine all pieces of legislation to ensure that the end results is objective and does not further burden individuals with undue regulation.

Again it is with great reluctance that I vote for this act. The changes made in the Conference Report at this late date are onerous and threaten the sanctity of private health care providers.

Mr. LIEBERMAN. Mr. President, I rise to express my support for the tax extenders package included in the Work Incentives Act conference report. In the context of our current budget situation of a small projected on-budget surplus for FY 2000, I believe this tax package strikes an important balance between fiscal responsibility and tax relief.

Although I would have preferred a fully offset tax package, I am pleased that the bill is fully offset for FY2000 and partially offset for FY2001, the two years for which most of the tax provisions are extended by law. If two years from now when we reconsider most of these provisions a on-budget surplus does not exist, I will push for an extenders package that is fully offset to ensure that we do not go into deficit as a result of tax relief measures.

The package includes several important provisions that I strongly support. The Research and Experimentation Tax Credit is important for our future international competitiveness. This tax credit provides an important incentive for our companies to research and innovate. I hope that in the near future we will update this credit to reflect current business conditions and to make it a permanent part of the tax code.

The AMT modification, the Worker Opportunity Tax Credit, and the Welfare-to-Work Tax Credit are all important provisions to help low to moderate income earners create more opportunities and to improve their living standards. I am pleased that the Finance Committee decided to include renewal of the Generalized System of Preferences in this tax package. This is a critical program for promoting growth in developing economies and for increasing international trade integration.

I strongly support the provision to extend and modify the tax credit for electricity produced by wind and biomass materials. In order to ensure energy security and address national environmental priorities such as clean air and mitigation of global climate change, it is essential that renewable energy options become more competitive. These tax provisions will ensure that renewable energy technologies will be able to compete more equitably with fossil sources such as coal and oil. However, while this package includes

modest extensions and modifications, I am disappointed that the bill does not go further by extending the credit to include landfill methane and other cellulosic feedstocks.

I would like to thank Chairman ROTH and Senator MOYNIHAN for their hard work in getting this package together. It is a fiscally responsible and an appropriate package under our current fiscal situation. I urge my colleagues to support this bill.

Mr. JEFFORDS. Mr. President I am delighted to stand before you today, to speak about an extremely important piece of legislation. The bill we are sending to the President today, a bill I know he is eager to sign into law, will have a tremendous impact on people with disabilities. In fact, this legislation is the most important piece of legislation for the disability community since the Americans with Disabilities Act.

My reason for sponsoring this particular piece of legislation is quite simple. The Work Incentives Improvement Act of 1999 addresses a fundamental flaw in current law. Today, individuals with disabilities are forced to make a choice . . . an absurd choice. They must choose between working and receiving health care. Under current federal law, if people with disabilities work and earn over \$700 per month, they will lose cash payments and health care coverage under Medicaid or Medicare. This is health care coverage that they need. This is health care coverage that they cannot get in the private sector. This is not right.

Once enacted, the Work Incentives Improvement Act of 1999 will allow individuals with disabilities, in states that elect to participate, continuing access to health care when they return to work or remain working. In addition, those individuals who seek it, will have access to job training and job placement assistance from a wider range of providers than is available at this time. Currently, there are 9.5 million individuals with disabilities across the country who receive cash payments and health care coverage from the federal government. Approximately 24,000 of these individuals live in my home state, Vermont. Once enacted, the Work Incentives Improvement Act will actually save the federal government money. For example, let's assume that 200 Social Security disability beneficiaries in each state return to work and forgo cash payments. That would be 10,000 individuals out of the 9.5 million individuals with disabilities across the country. The annual savings to the Federal Treasury in cash payments for just these 10,000 people would be \$133,550,000! Imagine the savings to the Federal Treasury if this number were higher. Clearly, the Work Incentives Improvement Act of 1999 is fiscally responsible legislation.

I began work on this bill 1996. Though it was a long and sometimes difficult task, many hands made light work. Senator KENNEDY, Ranking member on

the HELP Committee, joined me in March 1997. Senators ROTH and MOYNIHAN, Chairman and Ranking Member on the Finance Committee signed on as committed partners in December of 1998. Last January, 35 of our colleagues, from both sides of the aisle, joined us in introducing S. 331, the Senate version of this legislation. One week later, in a Finance Committee hearing, we heard compelling testimony from our friend, former Senator Dole, a strong supporter of this legislation. A month later, we marked this legislation out of the Finance Committee with an overwhelming majority in favor of the bill. Finally, on June 15th, with a total of 80 cosponsors, we passed this legislation on the floor of the United States Senate, with a unanimous vote of 99-0.

Four months later, over 35 of our colleagues in the House of Representatives, took to the floor of their chamber, and spoke eloquently for their version of this legislation. Later that day, the bill passed the floor of the House with a vote of 412-9. Since then, the Senate and House Conferees have been working diligently in effort to reach common ground. I am very pleased today, that the differences in policy in the two different bills have been resolved and consensus has been reached on a conference agreement. This agreement does not compromise the original intent of the legislation, retaining key provisions from S. 331.

From my perspective, the Work Incentives Improvement Act of 1999 represents a natural and important progression in federal policy for individuals with disabilities. That is, federal policy increasingly reflects the premise that individuals with disabilities are cherished by their families, valued and respected in their communities, and are an asset and resource to our national economy. Today, most federal policy promotes opportunities for these individuals, regardless of the severity of their disabilities, to contribute to their maximum potential—at home, in school, at work, and in the community.

I have been committed to improving the lives of individuals with disabilities throughout my Congressional career. Providing a solid elementary and secondary education for children with disabilities, so that they will be equipped, along with their peers, to benefit from post-secondary and employment opportunities is crucial. When I came to Congress in 1975, Public Law 94-142, the Education for all Handicapped Children Act, now the Individuals with Disabilities Education Act (IDEA), was enacted into law. IDEA assures each child with a disability, a free and appropriate public education. I am proud to be one of the original drafters of this legislation which has reshaped what we offer to and expect of children with disabilities in our nation's schools.

In addition, I have been committed to providing job training opportunities for individuals with disabilities. In

1978, I played a central role in ensuring access to programs and services offered by the federal government for individuals with disabilities through an amendment to the Rehabilitation Act. I believe that this amendment alone laid the foundation for significant legislation that followed, including the Technology-Related Assistance for Individuals with Disabilities Act of 1988, now the Assistive Technology Act of 1998, both of which I drafted. Most importantly, this legislation opened the doors for the most comprehensive piece of legislation of all, the Americans with Disabilities Act of 1990. This legislation prohibits discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telephone service.

These laws have forever changed the social landscape of America. They serve as models for other countries who recognize that their citizens with disabilities are an untapped resource. In our country, individuals with disabilities are seen everywhere, doing everything. Just this past weekend, thousands of physically disabled individuals participated in the New York City Marathon, as they have been doing for years. The expectations that these people set for themselves and the standards we apply to them have increasingly been raised, and now in many circumstances equal those set and applied to other individuals.

Unfortunately, one major inequity remains. That is, the loss of health care coverage if an individual on the Social Security disability rolls chooses to work. Individuals with disabilities want to work. They have told me this. In fact, a Harris survey found that 72 percent of Americans with disabilities want to work, but only one-third of them do work. With today's enactment of the Work Incentives Improvement Act of 1999, individuals with disabilities will no longer need to worry about losing their health care if they choose to work a forty-hour week, to put in overtime, or to pursue career advancement. Individuals with disabilities are sitting at home right now, waiting for this legislation to become law. Having a job will provide them with a sense of self-worth. Having a job will allow them to contribute to our economy. Having a job will provide them with a living wage, which is not what one has through Social Security.

In addition to continuing health care coverage and providing job training opportunities for individuals with disabilities, this legislation offers many other substantial long-term benefits. The Work Incentives Improvement Act of 1999 will give us access to data regarding the numbers, the health care needs, and the characteristics of individuals with disabilities who work. Furthermore, this legislation will provide the federal government as well as private employers and insurers, the facts upon which to craft appropriate future health care options for working individuals with disabilities. It will allow

employers and insurers to factor in the effects of changing health care needs over time for this population. Hopefully, it will even improve the way in which employers operate return-to-work programs. Through increased tracking of data, we will learn the benefits of intervening with appropriate health care, when an individual initially acquires a disability. We will also learn the value of continuing health care to a working individual with a disability. If an individual, even with a severe disability, knows that he or she has access to uninterrupted, appropriate health care, the individual will be a healthier, happier and thus more productive worker.

I would like to take the time now to briefly outline the major provisions which have remained as part of this legislation. The conference agreement retains the two state options of establishing Medicaid buy-ins for individuals on Social Security disability rolls, who choose to work and exceed income limits in current law, as well as for those who show medical improvement, but still have an underlying disability. For working individuals with disabilities, the conference agreement extends access, beyond what is allowed in current law, to Medicare. In addition, the legislation before us today retains several key provisions from S. 331, including, the authority to fund Medicaid demonstration projects to provide access to health care to working individuals with a potentially severe disability; the State Infrastructure Grant Program, to assist states in reaching and helping individuals with disabilities who work; work incentive planners and protection and advocacy provisions; and finally, most of the provisions in the Ticket to Work Program.

In order to control the cost of this legislation, compromises were made. Although the purpose of the State Infrastructure Grant Program and the Medicaid Demonstration Grant Program remain the same, the terms and conditions of these grants were altered in conference. As a result, states are not required to offer a Medicaid buy-in option to individuals with disabilities on Social Security, who work and exceed income limits in current law, prior to receiving an Infrastructure or a Medicaid Demonstration Grant.

Also in Conference, the extended period of eligibility for Medicare for working individuals with disabilities has been changed from 24 to 78 months. During this extended period, the federal government is to cover the cost of the Part A premium of Medicare for a working individual with a disability, who is eligible for Medicare. S. 331 would have extended such coverage for an individual's working life, if he or she became eligible during a 6-year time period.

I would like to note two changes to the Ticket to Work program made during Conference. The new legislation shifts the appointment authority for the members of the Work Incentives

Advisory Panel from the Commissioner of Social Security to the President and Congress. In addition, language regarding the reimbursements between employment networks and state vocational rehabilitation agencies was deleted in Conference. The new legislation gives the Commissioner of Social Security the authority to address these matters through regulation.

Although several changes have been made from the original Work Incentives bill, I am still very pleased with what we are adopting today. This is legislation that makes sense, and it will contribute to the well-being of millions of Americans, including those with disabilities and their friends, their families, and their co-workers. Today's vote provides us the opportunity to bring responsible change to federal policy and to eliminate a misguided result of the current system—if you don't work, you get health care; if you do work, you don't get health care. The Work Incentives Improvement Act of 1999 makes living the American dream a reality for millions of individuals with disabilities, who will no longer be forced to choose between the health care coverage they so strongly need and the economic independence they so dearly desire.

In closing, I would like to thank the many people who contributed to reaching this day. I especially thank the conferees, Majority Leader LOTT, Senators ROTH and MOYNIHAN, and in the House, Majority Leader ARMEY, and Congressmen ARCHER, BLILEY, RANGEL, and DINGELL. I also thank their staff who worked so closely in effort to reach this day. From my staff, I thank Pat Morrissey, Lu Zeph, Leah Menzies, Chris Crowley, and Kim Monk. I want to recognize and extend my appreciation to the staff members of my three fellow sponsors of this bill: Connie Garner in Senator KENNEDY's office, Jennifer Baxendell and Alexander Vachon with Senator ROTH, and Kristen Testa, John Resnick, and Edwin Park from Senator MOYNIHAN's staff. Finally, I wish to thank Ruth Ernst with the Senate Legislative Counsel for her drafting skill and substantive expertise, her willingness to meet time tables, and most of all, her patience. In addition to staff, we received countless hours of assistance and advice from the Work Incentives Task Force of the Consortium for Citizens with Disabilities. These individuals worked tirelessly to educate Members of Congress about the need for and the effects of this legislation.

Finally, I would like to urge my colleagues in both chambers to set aside any concerns about peripheral matters and to focus on the central provisions of this legislation. Let's focus on what today's vote will mean to the 9.5 million individuals with disabilities across the nation. At last, these individuals will be able to work, to preserve their health, to support their families, to become independent, and most importantly, to contribute to their communities, the economy, and the nation.



We are making a statement, a noble statement and we must do the right thing. Let's send this bill to the President.

Mr. REED. Mr. President, I rise today in strong support of the Ticket to Work and Work Incentives Improvement Act.

I want to pay tribute to my colleagues, Senators KENNEDY and JEFFORDS, who began working on this legislation in the last Congress—effectively building support for this bill from a handful of senators to 79 co-sponsors.

I also want to commend Senators MOYNIHAN and ROTH, who have dedicated their time and effort to this important cause. They have kept the debate on this bill focused on the substance, and have prevented it from degenerating into grandstanding or partisan bickering.

But the lion's share of credit should go to the members of the disability community, who have been tireless advocates for work incentives legislation. Without their hard work, we would not be here today. This bill is the product of their grassroots activism—making a common sense idea into a national policy.

As my colleagues know, the major provisions of the Ticket to Work and Work Incentives Improvement Act are infinitely sensible. They would remove the most significant barrier that individuals with disabilities face when they try to return to work—continued access to adequate health care.

Currently, individuals with disabilities face the dilemma of choosing between the Medicare and Medicaid health benefits they need and the job they desire. Mr. President, this is not a choice at all, and it is regrettable.

According to surveys, about three quarters of individuals with disabilities who are receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits want to work. Sadly, less than one percent are actually able to make a successful transition into the workforce. A major barrier seems to be the lack of sufficient health care coverage.

By passing this legislation, we will extend eligibility for Medicare and Medicaid and provide a helping hand to individuals with disabilities who aspire to work.

Mr. President, this legislation also takes a step to help workers who are stricken with progressive, degenerative diseases, such as Multiple Sclerosis, HIV/AIDS, and Parkinson's Disease, which can be slowed with proper treatment. With the health coverage buy-in offered under this bill, these workers can continue to hold a job instead of leaving the workforce in hopes of meeting the need requirements for Medicaid coverage.

These citizens can continue to make substantial contributions to the workplace and to society while benefitting intellectually and emotionally.

With the Americans with Disabilities Act, Congress adopted legislation to

combat discrimination and remove physical barriers from the workplace. Now, we have the chance to lift yet another barrier to work, the loss of health care coverage.

In my home state of Rhode Island, more than 40,000 individuals with disabilities could benefit from the work incentives bill. Across the country, more than 9.5 million people could be positively affected by this legislation.

Our booming economy has created millions of new jobs, and has brought thousands of Americans into the workforce for the first time. By passing this legislation, we can take another step to help a significant group of Americans participate in our national economic prosperity.

Mr. President, before I yield, I would like to briefly mention my concern about some offsets attached to this measure. As colleagues who have followed this bill know, it seemed as if there was a revolving door when it came to the consideration of offsets during the Conference. Provisions came and went and returned again.

I was pleased that a controversial offset regarding the refund of FHA upfront mortgage insurance premiums was withdrawn. This offset was essentially a \$1,200 tax on approximately 900,000 low- and middle-income families and first-time home-buyers, and the conferees were right to omit it from this bill.

Regrettably, the bill retains two other controversial offsets, which I oppose. The first is an assessment on attorneys representing clients with Social Security disability benefits claims. Although the Administration supports this offset, I believe that it will discourage qualified attorneys from taking on these complicated, labor-intensive claims cases—which already offer little remuneration to attorneys. Ultimately, this assessment will hurt those individuals trying to secure their rightful benefits, not the attorneys. I commend the conferees for taking steps to blunt the impact of this provision by capping the fee at 6.3% and requiring GAO to study the cost and efficiency of this and alternative assessment structures. Nonetheless, I still believe that this is an inappropriate offset.

The other offset changes the index for student loan interest rates from the 91-day Treasury bill to the three-month rate for commercial paper. This provision saves a modest amount of money in the short-term. Unfortunately, those savings will not be transferred to students, and the offset will actually put taxpayers on the hook if the markets turn sour. Let me add that this provision flies in the face of an agreement reached in last year's Higher Education Act Amendments. Under that legislation, we were to study the impact of this type of conversion. We are still awaiting the findings of that study, and in the absence of an authoritative conclusion, I believe it is premature to entertain this change in pol-

icy. Mr. President, setting these important concerns aside, I believe that the Ticket to Work and Work Incentives Improvement Act is a major victory for all Americans, and we should all support it. I want to again commend the leading Senate sponsors, Senators KENNEDY, JEFFORDS, MOYNIHAN, and ROTH for their tremendous work in bringing this legislation to this point, and I urge all of my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 8 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 8 minutes.

Mr. SANTORUM. Mr. President, I want to pick up where the Senator from Illinois left off. I think he hit the nail on the head with respect to our concern with a provision in this bill which will create an additional moratorium for the organ allocation regulations to go into effect.

There will be a 90-day moratorium. Senator DURBIN, Senator SCHUMER, Senator MOYNIHAN, Senator SPECTER, and I, and many others have some grave concerns about its impact on thousands of people who are on transplant lists across this country and their ability to get organs in what may be the last few days of their lives. That is, unfortunately, what is going to occur. We are going to delay a system being put into place which would put a priority on the health status of the person on the transplant list as opposed to the residency status of where that person happens to be in the hospital.

It is a battle. It is an economic battle in many respects. And certainly, from some perspectives, I have transplant centers in my State that support these regulations; I have transplant centers in my State that oppose them. I look at it from the unbiased position of, what is in the best interest of the patient? For me, as Senator DURBIN just said, when 3 of the 11 people who will die today because organs are not available, when 3 of them needlessly die because we are transplanting organs that would otherwise go to them into people who are healthier and would not die but for the transplant, then we have something seriously wrong in this country. We have something seriously wrong when geography trumps patient need. That is what the current organ allocation system has.

Why has that occurred? This was a system that was put in place well over 10 years ago, when there were fewer transplant centers and when organs could not survive as long after being harvested. So geography did play an important role because the organ that was harvested had to be quickly transported to a hospital and implanted into the donee. That has changed. Now organs survive for around 4 hours, according to our transplant surgeon, Dr. FRIST, who lectured us on this a little

while ago. Now we have the ability to more broadly spread these organs out so we can reach sicker people. Yet the organ allocation system developed well over 10 years ago still focuses on geography. It may have been applicable at one time. It doesn't work anymore. People are dying as a result of it.

We have 4,000 people on transplant lists; 1,000 will die. And it is incredible to me that those will die unnecessarily—4,000 will die and 1,000 will die unnecessarily—because of our regulations.

We have gone through a moratorium on these regs. I know this is a very controversial issue. It is a controversial issue because of economics. There is no controversy anymore as to what is in the best interest of patients. Last year, when Bob Livingston was able to get a year delay as chairman of the Appropriations Committee, we said, well, the medical evidence will sustain their position that geography is the best way to do this. So we asked for a study—the study of the Institute of Medicine—to determine the findings of a nonpartisan, nonbiased organization. Let me tell you what they came back with:

On the basis of the analysis of this report, it seems apparent that patients on liver transplant—

That is what they specifically looked at—

waiting lists will be better served by an allocation system that facilitates broader sharing within broader populations.

The Institute of Medicine says "broader sharing," with geography being a lower priority factor in the decision.

This question was also put forward: Will more people die if we continue this system?

Again, the Institute of Medicine was very clear:

Increased sharing of organs would result in increasing transplantation rates for status 1 patients, the sickest patients, decreasing pre-transplantation mortality for sicker patients, which is status 2(b), and decreasing transplantation rates for status 3 patients, without increasing mortality.

That is the key. Yes, status 3, the healthier patients, will get fewer organs, but they won't die as a result of that. Yes, status 1 and 2(b) patients will get more transplantations and will live as a result of that, where they otherwise would die.

So it is clear, again, from the medical evidence the Institute of Medicine has put forward that a broader geographic sharing is the way to go. That is what these regulations dictate—that the sicker patients should get these before they die, not healthy patients who would otherwise live or would live for a long period of time without transplants.

The other issue you will hear brought up is that we need geography to be a big factor because it increases the availability of organs, that people want to donate organs in their community. The Institute of Medicine looked at this and found no convincing evidence

to support the claim that broader sharing would adversely affect donation rates, or potential donors would decline to donate because an organ might be used outside the immediate geographic area.

I have an organ donor card. I am someone who, upon my demise, wants to be able to give organs to someone else so they might live. I don't care whether it goes to somebody in Pittsburgh, or in Chicago, or in Alabama, as long as it goes to the person who needs it the most.

That brings me to my final point, on which I think we can all agree. This debate is contentious, and the reason for that is, we don't have enough organs. So I just say that we can all agree that we need to do more to encourage organ donation. People are needlessly dying because people and families have trouble at that moment of death—I know how difficult that can be—making the decision to donate the organs of somebody who is brain dead to someone else who can live as a result of that donation. Hopefully, through this discussion, we can also work on how we can broaden the availability of organs so this contentious issue of regional transplant centers will be minimized in the future.

Mr. President, with that, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I have the great honor and pleasure to yield 5 minutes to the Senator from Iowa, who is so active in the Ticket to Work legislation.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. HARKIN. Mr. President, I thank the ranking member on the committee. I rise in strong support of the Work Incentives Improvement Act. I really want to commend my two colleagues, Senator JEFFORDS of Vermont and Senator KENNEDY from Massachusetts, for their excellent work in getting this very important piece of legislation through. I want to also thank the members of the Finance Committee—in particular, Senator ROTH and Senator MOYNIHAN—for their hard work on this legislation.

For people with disabilities all over this country, this is truly an incredible day. Congress is continuing to fulfill the promise we made to people with disabilities 9 years ago when we passed the Americans With Disabilities Act in 1990. When we passed the ADA, they told Americans with disabilities that the door to equal opportunity was finally open. And the ADA has opened doors of opportunity—plenty of them. Americans with disabilities now expect to be treated as full citizens, with all the rights and responsibilities that entails.

But our work is not finished. Far too many people with disabilities who want to work are unemployed. One of the main reasons they are unemployed is,

under the current system, people have to choose between a job and health care. I could not put it any better than a constituent of mine, a young woman by the name of Phoebe Ball. Phoebe just graduated from the University of Iowa. She was shocked when they found that if she took an entry-level job paying \$18,000 a year, she would suffer a huge loss—her health insurance.

So Phoebe wrote an article for the newspaper. I will read part of it:

I want off SSI desperately . . . I want to work. I want to know that I have earned the money I have . . .

My parents and my society made a promise to me. They promised me that I can live with this disability, and I can . . . What is limiting me right now is not this wheelchair, and it's not this limb that's missing. It's a system that says if I can work at all, then I'm undeserving of any assistance. I'm undeserving of the basic medical care that I need to stay alive.

. . . What is needed is a government that understands its responsibility to its citizens . . . then we'll see what we are capable of, then we'll be working and proving the worth of the Americans With Disabilities Act.

I could not say it any better than Phoebe just did. The Work Incentives Improvement Act is a comprehensive bill that will be the answer to Phoebe Ball's dilemma. If only 1 percent—or 75,000—of the 7.5 million people with disabilities, such as Phoebe, who are now on benefits were to become employed, Federal savings would total \$3.5 billion over the work life of these beneficiaries. That not only makes economic sense, it contributes to preserving the Social Security trust fund.

The disability community across this country and Members from both sides of the aisle have wholeheartedly endorsed this bill. Rarely do we see such broad bipartisan support. But that is because on this particular issue it is easy to agree—people with disabilities should continue to move toward greater and greater independence.

In that spirit, Senator SPECTER and I introduced the Medicaid Community Attendant Services and Supports Act earlier this week. Its shorthand name is MCASSA. This bill will build on what we are doing today with the Work Incentives Improvement Act. Ten years after the passage of the Americans With Disabilities Act, next year, we are still facing the situation where our current long-term care program favors putting people into institutions.

A person has a right to the most expensive form of care—a nursing home bed—because nursing home care is an entitlement. But if that same person with a disability wants to live in the community, he or she is going to have to face a lack of available services because community services are optional under Medicaid. Nursing home is a mandatory entitlement, but if you want to live in the community, that is optional. Well, the purpose of our bill is to level the playing field and give people with disabilities a real choice.

Our bill would allow any person entitled to medical assistance who would

go to a nursing facility to use the money for community attendant services and support. In shorthand, what our bill says is: Let the Federal money follow the person and not the program. If that person wants to use that money for community-based services and attendant services, that person with a disability ought to be able to use the money that way. If they want to use the money for a nursing home, leave it up to the individual; we should not be dictating where they ought to live and how they ought to live. As is the work incentives bill, MCASSA is rooted in the promise of ADA—equality of opportunity, full participation, independent living, and economic self-sufficiency for all.

I thank the Chair.

I thank the President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 4 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 4 minutes.

Mr. SESSIONS. Mr. President, I thank the Senator from Delaware, and I thank him particularly for his interest on this issue and so many other issues that have been before this Senate, including all of the major tax cuts in our country in the last number of years. He has been a key player in that.

The issue before us today involves many different aspects. I believe very strongly that the organ transplant issue is critical for our Nation. We have made such magnificent progress in enhancing the availability of organs, helping people who receive those organs, and increasing the success rate of organ transplants. It has been a continual series of advancements—whether it is medication to avoid rejection, or the skill of a surgeon, and so forth. The key to that has been the magnificent services rendered by organ transplant centers all over the country.

The plan that has been directed and proposed by Secretary Shalala of HHS, which gives her, in fact, the total ability to void and dictate the regulations, that plan has been opposed and is not supported by the overwhelming number of organ transplant centers in this country. They do not believe it will save lives. They do not believe it will help the system to have Washington decide who gets organ transplants.

We have a system that is working and getting better on a daily basis, which is something of which we can be extraordinarily proud.

In Alabama, the University of Alabama at Birmingham is No. 1 in the world in kidney transplants. They are exceptionally skilled at that procedure, and is one of the great organ transplant centers in the world. Others are similar around the country. They are very uneasy about and object to this consolidation of power in the Secretary's office—a person who is not

elected by the people, and yet is about to impose regulations on the dispersement of organs in America.

This is a matter that ought to be and by law and right should be done in the U.S. Congress. The House passed a bill quite different from the Secretary's proposal. The committee met in the appropriations, and several Senators who had a view on this came up with a bill giving a 42-day window to change any rule she might pass. We will hardly be in session. We will not be in session in 42 days. Ninety days is the minimum time we can have so that this Congress can fulfill its responsibility to the health and safety of this country by having hearings and passing legitimate legislation on organ transplantation.

I would point out that the chairman of that subcommittee of the committee of which I am a member, Senator FRIST, Dr. FRIST, is one of the great organ transplant surgeons in America. He did the first organ-lung transplant in the history of the State of Tennessee. He will chair that committee. He is going to be fair on this issue.

But there is a congressional responsibility, and the minimum time we can accept is the 90 days that has been proposed.

I thank the Chair.

I hope and I am confident that will be part of this legislation.

Mr. MOYNIHAN. Mr. President, I am happy to yield 3 minutes to my colleague and friend from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 3 minutes.

Mr. SCHUMER. Mr. President, I thank the Senator for yielding time.

I rise, along with my colleagues from Pennsylvania and Illinois, very much against my colleague from Alabama on this important issue.

When somebody donates a liver or lungs or a kidney or a heart, they do not donate it in a particular area. They don't donate it and say: I want the person who lives in the State of Alabama or the State of New Jersey to have it. They donate it to do the most good.

Finally, we have come up with a solution with provisions that are fair—that say it doesn't matter where you live but rather what your need is in terms of getting an organ.

All of a sudden, to my disappointment, in the dark of night a ruling of that position was put into the legislation.

I think this is wrong. When somebody needs a liver in New York, and they need it, and their life depends on the liver, that liver should not go to someone in another State who has at least 3 years to live on their existing organs.

It is so wrong to create geographic divisions. We have learned that. The Secretary of HHS has promulgated regulations which, if I had my way, would be promulgated immediately.

My friend and colleague, who I know is very sincere in this, the Senator from Alabama, and others, put in a provision to delay this for 90 days.

I thank the Senator from Pennsylvania, Senator LOTT, and the Secretary of HHS for trying to compromise this issue so it can be fair to all.

We must and we will continue to fight, those of us who believe that organ donations should go to those who need it the most, and not those who live in a certain geographical area be given those organs.

The system has been supported by the National Academy of Sciences Institute of Medicine. It was developed by medical people and scientists. That is the way it ought to be.

We ought not hold organs hostage to political, geographic, and other divisive considerations.

Again, when somebody donates an organ, a beautiful and selfless act, it ought not be marred by politics. It ought to go to the person of greatest need, no matter where that person lives.

Mr. President, I yield the remainder of my time.

Mr. MOYNIHAN. Mr. President, I am happy to yield 3 minutes to my friend, Senator WELLSTONE.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

Mr. WELLSTONE. Mr. President, I want to actually start out on a positive note by raising one question.

This Work Incentives Improvement Act is a very important piece of legislation for all the reasons my colleagues have explained. I will go through that in a moment.

I don't understand why there is in this piece of legislation a \$1.7 billion subsidy for higher education lenders. I don't understand what that is doing in this piece of legislation. We are talking about whether or not people with disabilities are going to be able to work and maintain their health care coverage. That is what is so important about this legislation. It is incredibly important to the disabilities community in my State and across the country.

I thank Senators KENNEDY, JEFFORDS, ROTH, and MOYNIHAN. But I have to raise this question just for the RECORD.

What are we doing putting a \$1.7 billion subsidy in here for higher education lenders? Students could use this money by way of expanding the Pell grant. Students could use the money by way of low interest loans. Students could use the money to make higher education more affordable. But why is this provision being linked to another piece of legislation?

I must say again that when we get back to how we conduct our business, I hope next time we will not put these kinds of provisions together. This is not the way to legislate.

I think it is a great piece of legislation. I am going to support it. But I certainly don't think we should have this \$1.7 billion subsidy for the lenders as a part of this bill.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent that the voting schedule occur no later than 5 p.m. this evening, and that it be reversed so that the first vote will now occur on the adoption of the Work Incentives conference report, to be followed by the cloture vote, and finally adoption of the appropriations conference report.

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

Mr. MOYNIHAN. Mr. President, in the spirit of the hour, the Democratic side yields the remainder of its time to the distinguished and ebulliently happy majority leader.

Mr. LOTT. Thank you, Mr. President. It is always a great pleasure to work with the Senator from New York. It is even more fun to hear him speak. I am not sure what he said, but it sounded beautiful. I take it as a high compliment as I always do.

For the sake of a colloquy to clarify a section in the work incentives bill, I yield to Senator SANTORUM. We will have a colloquy with Senator SANTORUM, Senator SCHUMER, and myself.

Mr. SANTORUM. Mr. President, there is an issue over the language contained in section 413 of H.R. 1180 and the intent thereof that I ask the majority leader to clarify.

Mr. LOTT. Mr. President, I thank the Senator from Pennsylvania, and the Senator from New York, Mr. SCHUMER, for working with me on this and for their devotion to this important public health issue.

It is one which is important to our country and to the people that need the organ transplants. We have to try to find the best and the fairest way to deal with this issue. I am happy to clarify this issue contained in the legislative measure.

Mr. SANTORUM. I wish to clarify the language in section 413 of H.R. 1180 pertaining to the implementation of the Secretary of Health and Human Service's final rule on organ procurement and the transplantation printed in the Federal Register on October 20, 1999, specifically to ensure that this language allows, but does not require, the Secretary of HHS to revise this rule after the 90-day period beginning on the date of enactment of this act.

Mr. LOTT. Mr. President, the language will delay the rule for 90 days. That is what is required and that was my intent, from the date of enactment of H.R. 1180, in order to facilitate additional public review. It is not the intent of the legislation to cause any unreasonable delay in the formulation of necessary improvements in national organ transplant policies, but rather to permit constructive review of the information that will be available and for the Congress to review it.

Furthermore, I make clear section 413 provides that the rule is not effective until the expiration of the 90-day rule beginning on the date of enact-

ment of this act. During that 90-day period, the Secretary shall publish a notice eliciting public comments on the rule and shall conduct a full review of the comments. At the end of the period, section 413 allows, but does not require, the Secretary to make any revisions in the rule that she deems appropriate.

Mr. SANTORUM. I thank the majority leader for the clarification.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, will the Senator from Pennsylvania yield for a brief statement?

Mr. LOTT. I believe I have the time and I will yield.

Mr. SCHUMER. Mr. Leader and Senator SANTORUM, I have spoken with the Secretary of HHS and she has assured me this clarification has the support of the administration and it is something she, and it, intend to stand by.

Mr. LOTT. I thank the Senator.

Does the Senator from Alabama wish to speak?

Mr. SESSIONS. Mr. President, is it your expectation following the 90-day period during which the Secretary reviews the public comments that as of today we have not had a formal comment period, as I understand it; that the Secretary should inform the Congress of her reasons behind any final decision she would make?

Mr. LOTT. Yes, absolutely. I expect that and I believe she will do that.

Mr. SESSIONS. I wish to say that I know a lot of hard work has gone into this very contentious issue. Some said this had happened in the dead of night. What happened in the dead of night—I serve on the health committee that should be dealing with this—this 42-day rule went in. Our committee never voted on that or had hearings on it.

This at least gives our committee a narrow window of opportunity to try to deal with it. It won't be a full 90 days because we will be out half of that. It will be a narrow opportunity with Senator BILL FRIST chairing it and maybe we can work out some things that make sense. Right now I am very troubled. The overwhelming majority of the transplant centers are not happy with these rules as they are being developed. I think the Congress must speak.

I yield the floor.

Mr. LOTT. Mr. President, if I have time remaining, I yield the floor. I believe we are prepared to begin our series of votes, unless the chairman or ranking member would desire to wrap up.

The PRESIDING OFFICER. All time has expired.

Mr. ROTH. Mr. President, I would also like to quickly thank several staff members who have been working long and hard to make this bill possible.

Let me thank several members of Senator MOYNIHAN's staff—as always, they are skilled professionals who have been our partners working on this bill every step of the way.

In particular, let me thank Jon Resnick, Edwin Park, and David Podoff. And I would like to thank a former member of the Moynihan staff, Kristen Testa, who was there at the very beginning of this bill's legislative life and without whom there would not have been a Work Incentives Improvement Act.

I would also like to thank Pat Morrissey, Leah Menzies, and Lu Zeph of Senator JEFFORDS' office, and Connie Garner on Senator KENNEDY's staff. They have been tireless in their efforts on behalf of this legislation. Jennifer Baxendell and Alec Vachon from my staff worked tirelessly on this legislation and deserve special commendation.

Since this bill's inception, our staffs have worked together closely and well. I would like to thank you all for your dedication and hard work throughout all the many ups and downs this bill has faced.

Mr. President, I would also like to thank the dedicated professionals who worked so diligently to complete this year's tax legislation. First of all, I would like to thank my Finance team—Frank Polk, Joan Woodward, Mark Prater, Brig Pari, Tom Roesser, Bill Sweetnam, Jeff Kupfer, Ed McClellan, Ginny Flynn, Tara Bradshaw, Connie Foster and Myrtle Agent. I would also like to thank John Duncan and Bill Nixon from my personal staff for their commitment to seeing this process through to its successful completion.

I would also like to thank the members of Senator MOYNIHAN'S Finance staff who have helped make this a bipartisan effort—David Podoff, Russ Sullivan, Stan Fendley, Anita Horn, and Mitchell Kent.

It is also important to recognize the professionals of the Joint Committee on Taxation. In particular, I would like to thank Lindy Paull, Bernie Schmitt, Rick Grafmeyer, Carolyn Smith, Cecily Rock, Mary Schmitt, Greg Bailey, Tom Barthold, Ben Hartley, David Hering, Harold Hirsch, Laurie Matthews, Sam Olchyk, Oren Penn, Todd Simmens, Paul Schmidt, Mel Schwarz, and Barry Wold.

I would also like to thank Jim Fransen and Mark Mathiesen of the Senate's Legislative Counsel office who have the thankless job of turning tax policy into statute.

Finally, I would like to thank the Treasury's Office of Tax Policy. In particular, Linda Robertson, Jon Talisman and Joe Mikrut deserve special recognition for their help in this important legislation.

On this occasion I would also like to thank the staff who worked so hard on the Medicare, Medicaid, and SCHIP reform provisions included in the Omnibus Appropriations Act. They have worked incredibly long hours, with real dedication, to develop the strong, consensus product before the Senate today. In particular, let me thank Kathy Means, Teresa Houser, Mike

O'Grady, Jennifer Baxendell, and Alec Phillips on the Majority staff.

I would also like to thank Senator MOYNIHAN's staff for their cooperation and input. Let me thank Chuck Konigsberg, Liz Fowler, Edwin Park, Jon Resnick, Faye Drummond, Kyle Kinner, Dustin May, Julianne Fisher, Jewel Harper, and Doug Steiger.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), the Senator from Washington (Mr. GORTON), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. SMITH) would vote yea.

Mr. REID. I announce that the Senator from Washington (Mrs. MURRAY) is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—95

Abraham	Edwards	Lincoln
Akaka	Enzi	Lott
Allard	Feingold	Lugar
Ashcroft	Feinstein	Mack
Baucus	Fitzgerald	McConnell
Bayh	Frist	Mikulski
Bennett	Graham	Moynihan
Biden	Gramm	Murkowski
Bingaman	Grans	Nickles
Bond	Crassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Bunning	Helms	Roth
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Hutchinson	Schumer
Chafee, L.	Inhofe	Sessions
Cleland	Inouye	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Snowe
Conrad	Kennedy	Spector
Coverdell	Kerrey	Stevens
Craig	Kerry	Thomas
Crapo	Kohl	Thompson
Daschle	Kyl	Thurmond
DeWine	Landrieu	Torricelli
Dodd	Lautenberg	Warner
Domenici	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lieberman	

NAYS—1

Voinovich

NOT VOTING—4

Gorton	Murray
McCain	Smith (OR)

The conference report was agreed to. Mr. GORTON. Mr. President, had I been present for the vote on the conference report on H.R. 1180, I would have voted "no." I would have done so in spite of my high approval of most of the tax extenders and of many of the work initiative provisions. Neverthe-

less, the bill included an unwise and ill-considered new tax credit for the use of chicken waste for power production. That provision could never have survived standing alone. It is another unjustified complication in our tax code never considered by either House of Congress. It poisons the entire bill.

Mr. MOYNIHAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair. The PRESIDING OFFICER (Mr. SANTORUM). The majority leader.



ful opportunities to work, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 387, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 17, 1999, at page H12174.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

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

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative within which to revise and extend their remarks and include extraneous material on the conference report H.R. 1180.

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

There was no objection.

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

Mr. Speaker, today I rise in strong support of H.R. 1180, the Ticket to Work and Work Incentives Act, which also contains an important package of tax relief for American workers and families.

First, let me discuss the Ticket to Work and Work Incentives Act. Most of those receiving disability benefits today, due to the severity of their impairments, cannot attempt to work. Today, however, the Americans with Disabilities Act, along with advances in technology, medicine and rehabilitation, are opening doors of opportunity never thought possible to individuals with disabilities. Now people can telecommute to work. There are voice-activated computers. And, as technology provides new ways to clear hurdles presented by a disability, government must also keep pace by providing opportunity and not just dependency. Government should be helping people to work, not building barriers to independence and freedom.

This is one more victory in a string of health care achievements that the Republican Congress has guided into law. We strengthened Medicare, we made health insurance more portable, we passed tax breaks for long-term health care and to cut health insurance costs for people who buy their own health insurance, unfortunately, only to see all those vetoed by the President. And now we have modernized a key program for people with disabilities so that the Government is a help and not a hindrance. Mr. Speaker, that is truly a record of achievement and progress.

Another significant victory is the tax relief package in this bill. Because of our action, millions of families can now breathe easier knowing they will not get hit with a surprise tax hike for the next 3 years because we fixed the alternative minimum tax. The AMT is

□ 1800

CONFERENCE REPORT ON H.R. 1180,  
TICKET TO WORK AND WORK IN-  
CENTIVES IMPROVEMENT ACT  
OF 1999

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 387, I call up the conference report on the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaning-

a perfect example of an out-of-control Tax Code. Under the AMT, taxpayers are not allowed to claim the full child tax credit, the dependent care tax credit, the Hope Scholarship tax credit, and other tax credits which Congress passed to help Americans make ends meet. So the Tax Code was giving on one hand while quickly taking away with the other. This bill, today, fixes that for middle-income families, hundreds of thousands of them, for the next 3 years.

This bill also helps American companies maintain their cutting edge of research and development which will lead to new products, better medicines and a higher standard of living for consumers because it extends the most important R&D tax credit. For the first time in a long while, we have extended the tax credit for 5 years instead of hand-to-mouth year after year, on which no one can fully depend. Now businesses can plan for the future.

Another significant achievement of this bill is that Congress convinced the President that American taxpayers are paying too much and deserve some of their money back. Yes, it is only a small portion, but any amount of taxpayer funds that can be gotten out of Washington is money that cannot be spent on making government bigger. And that is exactly what this bill does.

This is one more achievement for a Congress that keeps delivering for the American people. We have made historic progress in paying down the debt. \$140 billion alone in the last 2 years. We are locking away the Social Security surplus so it cannot be spent on other things, and we are working on a long-term plan to save Social Security for all time. And now we have agreed to start returning a portion of the non-Social Security surplus to the taxpayers who send it here, and that is real progress.

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

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

Mr. Speaker, I was hoping that on this last bill, that the gentleman from Texas (Mr. ARCHER) and I have worked on together, that we might have found a more bipartisan tone than the one which the gentleman has just expressed today.

The gentleman talks about the accomplishments and what has been done for those people that are disabled as though his Democratic colleagues did not join with him to make this bill all that it is. The President presented this to the Congress and we worked together, and I agree that we do have a good bill.

There are some things that the gentleman does not talk about, and I expect that there is good reason for it. The gentleman has a delay here for the President's program dealing with transportation network for organ procurements, and the gentleman delays this from going into effect. It is controversial; it has nothing to do with

taxes, but somehow the gentleman got that in there.

The gentleman has some other bill that came from the other side, a contractor that deals with NOAA. It has nothing to do with taxes or the disabled.

And then, when we get involved with taxes, the gentleman talked about a Congress that produces. Well, I had hoped that we would not end on this note; but the last I heard from the majority, they were pulling up the Tax Code by the roots. True, that was 6 years ago, 5 years ago, 4, 3, 2, 1, and continuously counting down. The closest the other side came to even dealing with the Tax Code, as I recall, was a \$792 billion tax cut that never even got off the ground. And if we were to just weigh that bill, I hardly believe that even the staunchest conservative Republican would say that it simplified the Tax Code.

Now, I would have to agree with the gentleman that on the expiring provisions, the extensions of legislation that is existing law, that the gentleman and I worked together not as a Democrat or a Republican, but we worked together as tax writers, and with the help of the administration we were able to get these provisions paid for. We were able to put it in in a responsible way.

We could not stop all of the irresponsible things the other side wanted to do, so some people might want to focus on how the Republicans intend to make electricity out of chicken waste. But the gentleman insisted on the provision, we have it here, and God bless. The gentleman can join the wind and the closed-loop biomass, and if that is the way the other side wants to spend the credits, they are the majority and they can do it. But that is one of the things that we did not want to be associated with.

But I agree with the gentleman on the other good provisions. What are they? The extensions of existing law; to say that this Congress will not be irresponsible and allow these provisions to expire without doing the right thing.

So what I would like to say to the gentleman from Texas (Mr. ARCHER) is that he has no idea the pleasure it has been working with him on these positive things. And the only reason I stand up to point out some differences with the gentleman is that I would appreciate the gentleman not calling them Republican initiatives. The good ones are the bipartisan initiatives; the bad ones belong to the other side.

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

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to say that I think that it is unfortunate that the gentleman from New York has sought to try to, through his rhetoric, create some degree of partisanship. I would have liked to have given him far more credit on this bill. Much of what is in here are things that he wanted, but he would

not sign the conference report. And, frankly, that does take away from bipartisanism.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. RAMSTAD), a member of the committee.

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

Mr. RAMSTAD. Mr. Speaker, I thank the chairman for yielding me this time, and I also thank him for his strong leadership on this legislation.

Mr. Speaker, I rise in strong support of this important bill. Helping people with disabilities live up to their full potential has been a top priority of mine ever since being elected to Congress, in fact, 10 years before as a State senator as well. I also strongly support the tax extender provisions in this bill.

I must say that I was disappointed, however, that the administration insisted that an important revenue-raising provision be dropped from the final agreement. This provision was based on legislation I sponsored, H.R. 3082, which was cosponsored by a strong bipartisan majority on the Committee on Ways and Means. This legislation would have protected employees' stock ownership plans, ESOPs for S-corporation workers by preventing the abuse of tax rules that help them build retirement savings and equity in their company. But unfortunately, the administration wanted to impose a draconian scheme that would have effectively killed ESOPs; would have killed this savings opportunity for thousands of American workers.

Thanks to the leadership of the gentleman from Texas (Mr. ARCHER) and the bipartisan support for S-corporation ESOPs in Congress on the Committee on Ways and Means and in the full body, the administration's misguided proposal was soundly rejected in negotiations over this extenders package, and for that I am grateful. This was a victory for American workers and a victory for boosting America's dangerously low savings rate.

Although these ESOPs S-Corporation legislation was not enacted in this bill this session, I am pleased that Congress resisted the administration's plan to dismantle ESOPs, because they are highly effective retirement savings programs.

We are going to be back with this next year, and again I thank the chairman for his leadership.

Mr. Speaker, I rise in strong support of the bill before us. Helping people with disabilities live up to their full potential has been one of my top priorities even since I was first elected to public office.

I also strongly support the important tax extender provisions which will save families from being unfairly penalized by the Alternative Minimum Tax and will keep U.S. businesses competitive, innovative and job-creating.

I was disappointed the Administration insisted that an important revenue-raising provision be dropped from the final agreement. This provision was based on legislation I introduced (H.R. 3082) which is cosponsored by a



strong bipartisan majority of the Ways and Means Committee.

H.R. 3082 would protect employee stock ownership plans (ESOPs) for S corporation workers by preventing the abuse of tax rules that help them build retirement savings and equity in their company. But unfortunately, the Administration wanted to impose a draconian scheme that would have effectively killed this savings opportunity for thousands of American workers.

Thanks to the leadership of Chairman ARCHER and the bipartisan support for S corporation ESOPs in Congress, the Administration's misguided proposal was soundly rejected in negotiations over this extenders package. That was a victory for American workers, and a victory for boosting America's dangerously low savings rate.

Although H.R. 3082 was not enacted in this session, I am pleased Congress resisted the Administration's plan to dismantle these ESOPs, which are a highly effective retirement savings program. Thank you, Mr. Speaker.

Mr. Speaker, I can't tell you how long I have waited, along with many of my friends with disabilities in Minnesota, for this day. As many of my colleagues know, I have been working hard to help people with disabilities live up to their full potential since my election to this body in 1990, and as a Minnesota State Senator ten years prior. In fact, in 1993, Rep. Pete Stark and I introduced legislation to achieve the same goal we seek today.

As I have reminded my colleagues before, it was nine years ago that many of us enacted the ADA. It was nine long years ago that president Bush signed it into law and said, "Many of our fellow citizens with disabilities are unemployed. They want to work and they can work . . . this is a tremendous pool of people who will bring to jobs diversity, loyalty, low turnover rate, and only one request: the chance to prove themselves."

Mr. Speaker, despite the remarkably low unemployment rate in this country today, many of those with disabilities are still asking for this change to prove themselves in the workplace.

Despite all the good that the ADA has done to date, there is still room for improvement. The ADA did not remove all the barriers within current federal programs that prohibit people with disabilities from working. It's time to eliminate work disincentives for people with disabilities!

Eliminating work disincentives for people with disabilities is not just humane public policy, it is sound fiscal policy. It's not only the right thing to do; it's the cost-effective thing to do!

Discouraging people with disabilities from working, earning a regular paycheck, paying taxes and moving off public assistance actually results in reduced federal revenues.

People with disabilities have to make decisions based on financial reality. Should they consider returning to work or even making it through vocational rehabilitation, the risk of losing vital federal health benefits often becomes too threatening to future financial stability. As a result, they are compelled not to work. Given the sorry state of present law, that's generally a reasonable and rational decision.

We must transform these federal programs into spring-boards to the workforce for people with disabilities. This important bill does just that.

As I have said many times, preventing people from working runs counter to the American spirit, one that thrives on individual achievements and the larger contributions to society that result.

I implore my colleagues to vote for this important legislation before us today!

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume, and would just like to say to the chairman that I understand that my signature was expected at midnight last night, and I am sorry I could not be with him, because then the gentleman might have treated me more gently this evening.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

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

Mr. Speaker, this is a very important bill. It contains some very important provisions. I want to applaud the Clinton administration for the initiative and bringing forward the Ticket to Work legislation. It removes impediments from disabled individuals being able to return to work. It will save us money. If we get people off of disability to work, as they want to work, this legislation is very important.

Secondly, the tax extenders are very important. We all want to extend the tax provisions that would otherwise expire, whether it be for research and development or some of the other provisions that are in the bill.

But, Mr. Speaker, I must express my concern about a provision that was added that deals with the fair allocation of organs that would block HHS's regulation in this area. I believe that that provision will jeopardize the health of critically ill patients, and it is also inconsistent with our last vote on the budget omnibus bill.

The HHS regulation went through a process. It listened to the public; it listened to the Institute of Medicine and came forward with recommendations that tries to take geographical politics out of organ distribution and do it to people who are the most critically in need.

□ 1815

I hope we can follow the compromise that was in the last bill because that was a fair compromise that was reached that requires HHS to go out and listen and explain the regulations to the public. It is inconsistent with the provisions that are in this bill.

I hope that HHS will not have to follow the language because it is inconsistent with the last bill because, otherwise, I think we are going to jeopardize the health of the critically-ill individuals.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LAZIO).

Mr. LAZIO. Mr. Speaker, let me begin by thanking the distinguished gentleman from Texas (Mr. ARCHER), the chairman of the Committee on

Ways and Means, for his fine work and for his leadership in getting this to the floor. Let me thank the gentleman from Virginia (Mr. BLILEY), the chairman of my committee, for holding hearings immediately and being the first to actually move the Work Incentives Improvement Act.

This has been a remarkable achievement. I think there are many who believe that we would never get to this day. But, in fact, we are here.

I want to thank people on both sides of the aisle, the gentleman from Connecticut (Mrs. JOHNSON), the gentleman from Minnesota (Mr. RAMSTAD), the gentleman from California (Mr. MATSUI), and the gentleman from California (Mr. WAXMAN) for working in a bipartisan fashion on the Work Incentives Improvement Act.

Today, Mr. Speaker, we have the privilege of taking the most significant stride forward for rights of disabled people since the Americans with Disabilities Act. We are addressing the next great frontier when it comes to fully integrating disabled Americans into society, giving them the same economic opportunities that the rest of us enjoy.

Mr. Speaker, many Americans with disabilities rely on Federal health care and social services, assistance that makes it possible for them to lead independent and productive lives. But, unbelievably, we condition this assistance on their destitution. People with disabilities must get poor and stay poor if they are going to retain their health care benefits. They have got to choose between working and surviving.

That is why I introduced the Work Incentives Improvement Act, and that is why we have over 250 cosponsors from both sides of the aisle to end this perverse system of allowing Americans with disabilities to enter the workforce without endangering their health care coverage.

Mr. Speaker, a 1998 Harris survey found that 72 percent of Americans with disabilities want to work, but the fact remains that only one-half of one percent of dependent disabled Americans successfully move to work. Each percentage point of Americans moving to work represents 80,000 Americans who want to pay all or part of their own way but cannot; 80,000 Americans who are forced by a poorly designed system to sit on the sidelines while American businesses clamor for qualified workers.

This bill, in the end, Mr. Speaker, is about empowering people, people like a 39-year-old Navy veteran from my district who used to work on Wall Street and hoped to become a stockbroker but an accident in 1983 left him a quadriplegic. And even though he requires assistance for even the most basic daily activities, he never gave up on his dream. And 10 years after his accident, he passed the grueling stockbroker licensing exam. But, like most disabled Americans, he cannot afford to lose his health care benefits. If it

were not for the current Federal rules, he would be a practicing, taxpaying stock broker today.

The Work Incentives Improvement Act ends this injustice. It rips down bureaucratic walls that stand between people with disabilities and a paycheck. It is important to remember that a paycheck means a lot more than just money. For a disabled American or any American, it means self-sufficiency. It means pride in a job well done. It means dignity.

Mr. Speaker, we have come a long, long way since the time when Americans with disabilities were shunted off to the farthest corners of our communities. Many Americans have been waiting for us to give them a chance to pursue the American dream. Today let us tell them that the wait is over. Let us get the Work Incentives Improvement Act passed today.

Mr. RANGEL. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, the disability provisions of this act are really important and are going to make a difference in the lives of many. But I want to talk about two other provisions that will make our country more prosperous, and that is the R&D tax credit and Section 127 of the Tax Code.

Our party's position, the Democratic position, as stated by our leader is that the R&D tax credit should be permanent. This 5-year extension is really in the right direction. I am happy to support it. But next year we are going to go for permanent.

On 127, I was so pleased that the gentleman from New York (Mr. RANGEL), the ranking member, has taken so much time to work on this. It is important that we support employer-supported tuition reimbursement plans. In this day and age, when the best educated workforce means they will be competitive, encouraging employers to help employees to continue their education is essential.

Again, I am happy to support this extension, and I look forward to extending this to graduate education. I thank the gentleman from New York (Mr. RANGEL) whose understanding and support of high-tech issues in this bill comes through loud and clear. He really followed through on the commitments he made when he came and visited Silicon Valley and really understood the issue of competitiveness and technology and education.

So kudos to the gentleman from New York (Mr. RANGEL) for his wonderful work. I look forward to taking both of these provisions just a little bit farther in the next Congress.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FOLEY), a member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I do want to just correct a statement made by the prior speaker when she described their efforts to extend permanently the R&D tax credit.

We can tell our colleagues from negotiations that Mr. Summers, the Treasury Secretary, vehemently opposed that permanent extension. So that, if that is the position of the party, we would like the Secretary of the Treasury to be informed of that position so that it would be much easier for the chairman of the Committee on Ways and Means to accomplish something he tried to do at the very outset of deliberations.

I want to also suggest to my colleagues how proud I am to stand up and support this bill. Credits to Puerto Rico and U.S. possessions, minimum tax relief for individuals, permitting full use of personal nonrefundable credits, welfare-to-work tax credits, work opportunity tax credits, a number of initiatives that I think will stimulate the economy, continue us on our road to prosperity, continue to see additional revenues to the Treasury so we can continue to reduce the debt of the American taxpayers to increase and enhance investment in America.

I commend the gentleman from Texas (Mr. ARCHER), the chairman of the Committee on Ways and Means, for seeing this bill to the successful conclusion. Especially, I would like to note the ticket-to-work and Work Incentives Improvement Act of 1999.

So oftentimes some of our vulnerable citizens in society who have been stricken by illnesses and ailments have been unable to make the required choice of whether to stay employed and then forgo, if you will, the Social Security, the Medicare-Medicaid provisions. This bill now makes an attempt, to allow those capable and able individuals to be in the workforce, continue those vital health insurance needs provided by Medicaid and Medicare, and allow them to be productive, taxpaying citizens.

So I applaud the bill and I urge Members to vote for passage of this bill as it comes to the floor.

Mr. RANGEL. Mr. Speaker, it is with great pleasure that I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the former chairman and now ranking member of the Committee on Commerce, my friend and distinguished colleague.

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

Mr. DINGELL. Mr. Speaker, I thank my good friend, the gentleman from New York (Mr. RANGEL) for his kindness to me.

We take one step forward and one back. The bipartisan agreement on organ allocations was reached during negotiations between Labor, HHS and on that appropriations bill.

The revised regulation would not become final until 42 days after enactment, sufficient time to enable the comments on the revisions and, if necessary, to make further modifications. Now we are witnessing an end run by opponents to this proposal with regard to organ allocation policy.

The legislation before us contains a moratorium of 90 days on any allocation regulation. This delay has a huge cost. The regulation calls for broader organ sharing. This is consistent with the conclusion of the National Academy of Sciences, which studied the allocation system.

HHS has stated that approximately 300 lives per year could be saved through broader sharing. The math is simple. There is a difference between a 42-day delay and a delay of almost 90 days.

Two more points to be made. First, blocking HHS oversight amounts to privatization of Medicare and Medicaid expenditures attributable to organ transplants. If my colleagues want to privatize Medicare, let them do it in the open and proper fashion.

Second, blocking HHS oversight continues the proliferation of State organ allocation statutes, at least 12 by last count. That is directly in conflict with the current allocation criteria and with good sense.

The same Members who decry political or bureaucratic involvement in organ allocation policy when they have HHS in mind are stunningly silent when politicians and bureaucrats involved in this are State officials.

A lack of leadership on the issue is creating immense fragmentation of organ allocation policies, just the opposite direction of where IOM said the allocation policies should go.

In like fashion, the Work Incentives Act of 1999 is a large step in the correct fashion. It will ensure that the disabled no longer have to choose between health care and their jobs. The bill also includes a demonstration project to provide health coverage to people who have serious conditions but are not fully disabled, these people who have multiple sclerosis or cerebral palsy. This would enable them to remain as working members of society.

Thanks to hard work and dedication on the part of the administration and the disability community, additional funding has been secured for a very important project here.

During the past few weeks, controversy has swirled around proposed offsets in the bill. Parties from both sides have agreed to remove some of the most contentious payfors. However, I have heard objections from many of my constituents about two offsets that remain, a provision to change the way that students loans are financed and a tax on payments to attorneys who represent Social Security claimants.

Although I am going to vote for this bill, I have substantial concerns for these offsets. And, very truthfully, the things that are done here are wrong.

The Work Incentives Act has overcome many obstacles in its legislative history. The bill is on the floor today because it is based on good policy and because it will make a difference of lives of people with disabilities. For that reason, I support it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SHAW), the respected chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, this legislation is about work. Its goal is to help individuals with disabilities work and support themselves and support their families.

Today only three in ten adults with disabilities work, compared with eight in ten adults without disabilities. A big reason is Government programs take away cash and medical benefits if disabled individuals find and keep jobs. That must change. And it will change under this bill that is before us today.

No one should be afraid of losing benefits if they do the right thing and try to work. We should reward and help especially those who struggle to overcome their disabilities. That is why we are offering the new tickets disability individuals can use to obtain whatever services they need in order to work.

But we do not stop there. We extend health care coverage for a total of 8½ years so that no one has to fear losing their medical coverage if they go to work.

Some may still not risk going to work for fear of having to wait months or even years to get back on the benefits if their health begins to once again decline. So we ensure disabled individuals can quickly get back onto the rolls if they try to work but their health deteriorates.

That is the right kind of safety net, one that encourages work and protects those who need help along the way. From providing more help, finding and keeping a job, ensuring health care coverage, to strengthening the safety net to those who cannot stay on the job, this legislation does the right thing. This is another historic step to ensure that everyone can know the dignity that comes with work.

I urge all Members to support this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN), the ranking member of the Subcommittee on Health and Environment of the Committee on Commerce.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me the time.

Mr. Speaker, this Congress owes a debt of gratitude to the gentleman from New York (Mr. LAZIO) and to the gentleman from California (Mr. WAXMAN). Thanks largely to their efforts, we have an opportunity to do something right. I wish I could say that more often.

We owe a debt of gratitude especially to the gentleman from Michigan (Mr. DINGELL) and the gentleman from New York (Mr. RANGEL) under whose leadership proponents of this legislation managed to defend repeated attempts to emasculate it.

Finally, we owe a debt of gratitude to President Clinton. The President and

his exceptional health team have demonstrated their commitment to the goals of this bill in a number of ways, lending their assistance again and again as this arduous process moved forward.

The idea behind the bill is simple. If individuals want to work, let us help them work. For many disabled individuals, the ability to work hinges on reliable health care. Yet, under current law, work means losing access to that care. By providing continued access to Medicare and Medicaid, the Work Incentives Improvement Act enables individuals to leave the disability roles and go back to work.

H.R. 1180 taps into the tremendous human potential that all of us have and takes us closer to a time where equal opportunity for disabled people is no longer an objective, it is a fact.

Nothing is perfect. This bill could have been much closer to that ideal if the Republican leadership had not co-opted it with a self-serving moratorium on the organ allocation bill. And there is a user fee provision that may reduce the number of attorneys willing to represent disabled clients. It is not a particularly well thought out provision. But overall, Mr. Speaker, the bill is a victory for the disabled and a much needed reminder that American values are, in fact, intact.

I ask for support of the bill.

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Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the respected chairman of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me this time. I want to comment briefly on two parts of this bill. First of all, it is really a joy to know that people in my district who suffer from physical or mental disabilities and who want to work and are capable of work but cannot work because of fear of losing their health coverage are going to be able to work. And as the Christmas holidays approach and they are offered longer hours, I know that they are going to be able to realize their dream of being a real part of the work team at their place of business. It is really a wonderful thing that we have done in this bill, to enable Americans simply to realize the opportunity of self-fulfillment that work offers.

But I also want to mention one other thing. How do we foster invention? Lots of times, we ask ourselves, how do we assure that there will be a strong economy for our children? In this bill is one of the keys. For the first time ever, we make the research and development tax credit in place and law for 5 years. Our goal is permanence, but we have never had 5 years. This will enable companies to plan and enable them to invest at a pace and at dimensions of dollars that we have never seen before. That drives new products. That

drives state-of-the-art inventions. That drives economic leadership. And that drives good jobs, high-paying jobs, and a successful America.

I want to personally congratulate the gentleman from Texas for his dedication to the R&D tax credit that would be longstanding enough to foster the kind of growth and invention, support for an entrepreneurial economy that this R&D tax credit will achieve. I know that he would have preferred permanence as many of us would have. But this is a tremendous breakthrough. It is a real tribute to the gentleman from Texas and his dedication and to this Congress that we have extended the R&D tax credit for 5 years.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time. I guess I would like to focus on the dignity that this bill gives to many Americans who simply want a chance. I thank the ranking member. I thank the chairman of this committee. I could quarrel with the process in some of the extenders that we will also be including, but I want to respond with a focus on one of my constituents who saw me in the Heights, an area of my district in Houston, and spoke about her son. We were at a memorial giving tribute to those who had served in the military who lived in the Heights area. After the program, she came up and said, "What is the progress, when will you pass the Work Incentives Improvement Act? My son wants to be independent. My son wants to get on his feet. My son who is disabled simply wants to have his day in the sun."

And so this particular bill is of great relief to her and her family. It is a ticket to work and self-sufficiency program. And in fact over the years that I have been in Congress, I have enjoyed meeting with some of the physically and mentally disabled or challenged who have come to my office and have asked simply to be allowed to work and then not to lose their health benefits. That is their greatest crisis. In order for them not to be dependent, they need to have this kind of support system. I support this effort that would expand beneficiaries' access to public and private vocational rehabilitation providers and to employment service providers acting as employment networks under the program, and I support particularly the aspect of this bill that allows the disabled to go off and work and then, for example, if there is a problem, they still have the ability to come back within a 60-month period and get the benefits that they need without filing a new application. This is long overdue.

Mr. Speaker, I rise to support this important measure that both allows disabled persons to retain their federal health benefits after they return to work along and authorizes extensions for several tax provisions.

The conference report on H.R. 1180, Work Incentives Improvement Act is a true measure

of bipartisan efforts and includes a compromise version of the original House and Senate bills. This bill would establish the "Ticket to Work and Self-sufficiency Program" that would expand beneficiaries' access to public and private vocational rehabilitation providers and to employment service providers acting as employment networks under the Program.

This bill will allow disabled individuals to receive an expedited reinstatement of benefits if they lose their benefits due to work activity. Disabled individuals would have 60 months after their benefits were terminated during which to request a reinstatement of benefits without having to file a new application. It is imperative that we protect these disabled individuals, and this bill would provide provisional benefits for up to six months while the Social Security Administration determines these requests for reinstatement.

In addition to allowing disabled persons to retain their federal health benefits after they return to work, this bill also includes extensions of various tax provisions, many of which are scheduled to expire at the end of this year. The conference agreement provides approximately \$15.8 billion in tax relief over five years (\$18.4 billion over 10 years) by extending certain tax credits.

More specifically, this measure extends the Research and Development tax credit for five years (this credit would be expanded to include Puerto Rico and possessions of the United States), the Welfare-to-Work and Work Opportunity tax credits for 30 months, and the Generalized System of Preferences through September 30, 2001. Finally, the measure includes approximately \$2.6 billion in revenue offsets over five years (\$2.9 billion over 10 years).

This bill also delays the effective date of the organ procurement and transplantation network final rule. This rider provides people with more time to comment on the rule and for the Secretary to consider these comments. Our organ distribution system requires changes to create a more national system, to diminish the enormous waiting times, and to ensure that those people who are suffering the most receive help in time. The late, great Walter Payton's sorrowful death is just another sad reminder that far too many people in need of organs are trapped on waiting lists.

Finally, the bill requires the National Oceanic and Atmospheric Administration to continue existing contracts for its multi-year program for climate database modernization and utilization.

This measure clearly is important to the American people on many fronts. It is imperative that we pass this important piece of legislation. It is a sign that we are unified on both sides of the aisle, and it proves to the American public that we have put their needs above political posturing.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. OSE).

Mr. OSE. Mr. Speaker, I rise today in strong support of H.R. 1180, the Work Incentives Improvement Act. I want to express my sincere appreciation to the gentleman from Texas (Mr. ARCHER) and to the gentleman from New York (Mr. RANGEL). We have heard much talk this evening about tax credits for R&D and the like and those are very

important. But when I read this bill and I listen to the conversations, I hear freedom. I hear freedom for 5 million people who right now are confined or constrained because the law does not allow them to maintain their health benefits.

Mr. Speaker, if I could say one thing that just sends me home here soon with a light heart, it is that at the end of the 20th century as we did at the end of the 18th century, for over 5 million Americans this bill lets freedom ring. It lets them compete and participate. I applaud my colleagues.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. WATKINS), another respected member of the Committee on Ways and Means.

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

Mr. WATKINS. Mr. Speaker, I rise in support of the Work Incentives Improvement Act of 1999. First and foremost I say to my committee chairman and ranking minority member that the provisions here on the extenders is one that is going to be of great assistance and help to be able to continue moving the economy forward. The R&D for 5 years is a great need for business and industries that do a lot of research.

I would like to bring out a couple of things that are not highlighted, but I have had a chance of working personally with a number of individuals concerning this. One, the conference agreement would provide a 2-year open season beginning January 1 for clergy to revoke their exemption from Social Security coverage. This is something that a lot of ministers, and I have been associated with a lot of them through the fact that my former father-in-law was a minister, he is deceased now, but it is something I know he was concerned about back years ago.

The other provision is even a little closer. My wife and I have had our home available, licensed for foster children over the years; and I have worked with a lot of foster children. In this bill we have had a simplification of the definition of foster child under the earned income credit program. It provides for the simplification. Under this particular provision, a foster child would be defined as a child who is cared for by the taxpayer as if he or she were the taxpayer's own child; two, has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year; and, three, either is the taxpayer's brother, sister, stepbrother, stepsister or descendant, including an adopted child, of any such relative.

This is something that has been focused. I do not know if any of you have ever tried to work with a lot of the situation dealing with foster children, but it is a very cumbersome problem. This will help eliminate that.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER), another respected member of the Committee on Ways and Means.

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

Mr. WELLER. Mr. Speaker, let me begin my comments by just again praising the leadership of our committee's chairman for his efforts in putting together this good package that we are voting on today, a package that deserves bipartisan support, as well as the good ranking member for his efforts in making this a bipartisan effort today.

Mr. Speaker, this is a big victory for a lot of folks back home. The disabled are big winners with the ticket to work provisions in this bill, legislation that helps the disabled enter the workforce and keep their health care benefits. I really want to commend the gentleman from Missouri (Mr. HULSHOF) for his hard work and efforts on this.

It is also a victory for the taxpayers. This Congress said no to the President's \$238 billion in tax increases. This Congress said no to the President's plan to raid the Social Security Trust Fund by \$340 billion. I do want to express my biggest disappointment for this year and that is when the President vetoed our efforts to help 28 million married working couples when the President vetoed our efforts to eliminate the marriage tax penalty.

This legislation is good legislation. It helps folks back home in Illinois. There are three provisions I would like to highlight. Of course, the 5-year extension of the research and development tax credit. That is so important in Illinois, a multiyear commitment to providing this incentive for research into cancer, research into biotechnology, to increase food productivity, to increase the opportunity to grow our new economy, particularly in high technology since Illinois ranks fourth in technology. I also would note that Puerto Rico is included with this extension of the R&D tax credit, extension of the work opportunity tax credit.

We want welfare reform to work. If we want welfare reform to work, of course we want to ensure that there is a job for those on welfare. The work opportunity tax credits help contribute to a 50 percent reduction in the welfare rolls in Illinois. We extend it for 2½ years.

Third and last, I want to note the brownfields tax incentive, a provision that many of us worked on to include in the 1997 budget act. This is successfully working. Of course we extend it. I would point out that the district I represent on the South Side of Chicago, that the former Republic Steel property, the largest brownfield in Illinois, the largest new industrial park in Illinois benefited from this brownfields tax incentive. This is good legislation, and it deserves bipartisan support.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time. I would like to take this time to thank the gentleman from Texas for the courtesies he has extended to me. While we

have had major policy differences, he has always been a gentleman, he has been fair, he has been honest, and above all he has been sincere. I want to thank Mr. Singleton and the entire majority staff as well as Janice Mays. We have probably one of the best staffs in the House and they have worked hard and they have worked with us.

While it is my opinion that we did not accomplish too much in this first year, I look forward to working with the gentleman side by side, hand in hand to see what we can do to restore confidence in the Social Security system, the Medicare system, and see what we can do about prescription drugs.

Mr. ARCHER. Mr. Speaker, I yield myself the balance of my time. I thank the gentleman for his comments. We have much work to do next year, where we can work hopefully together on a strong bipartisan basis on Social Security, trade issues, and many other issues before our committee.

Mr. RANGEL. Mr. Speaker, I would like to clarify a provision relating to the rum cover over provision for Puerto Rico. The House-Senate conference agreement calls for an increase in the rum cover over for Puerto Rico from the current level of \$10.50 to \$13.25. It is my understanding that by an agreement between the Administration and the Governor of Puerto Rico, the Honorable Pedro Rossello, one-sixth of the \$2.75 increase in the rum cover over to Puerto Rico will be dedicated to the Puerto Rico Conservation Trust, a private, nonprofit section 501(c)(3) organization operating in Puerto Rico. The Puerto Rico Conservation Trust was created for the protection of natural resources and environmental beauty of Puerto Rico and was established pursuant to a Memorandum of Understanding between the Department of the Interior and Commonwealth of Puerto Rico dated December 24, 1968."

Mr. NEAL of Massachusetts. Mr. Speaker, I am going to vote for this legislation even though it is not paid for because added to the Ticket To Work program are important "must pass" tax provisions vital to all our constituents.

The most important provision in this bill is the extension of the current waiver of the alternative minimum tax rules affecting non-refundable personal credits. Without enactment of this provision, next April approximately 1 million taxpayers will find they owe more money to the federal government than they thought, for an average "stealth" tax increase of about \$900 each. Millions more will have to though the alternative minimum tax calculations, which can take 5 or 6 hours, just to find out they don't owe any more money.

In 1997 Congress approved new credits for children, and for education. We promised our constituents that the federal government would help them with these responsibilities. However, we subjected these credits to the alternative minimum tax. The result is that more and more middle income Americans will be forced into the AMA by our actions—and we will rightly get the blame.

So now we have to fix it. This bill does that for 3 years. But what we really need to do is to fix this problem permanently, because no middle income American should ever be sub-

ject to the alternative minimum tax calculation simply because they decided to send their kids to college.

Mr. Speaker, other members may focus their remarks regarding taxes on the research and development tax credit, or the Subpart F extension, or employer provided educational assistance. All important items. But not items that drive this bill—what is of paramount importance is the AMA fix, and I am pleased that we are finally taking steps to fix this for the immediate future.

Mr. STARK. Mr. Speaker, I rise with regret to oppose what is being called the "Ticket to Work and Work Incentives Improvement Act Conference Report." This title would never pass the "Truth in Labeling" test if it were on a box of food, but you can get still away with such falsehoods here in Congress—especially in the waning hours of the session.

The reason for my regret is that I have worked much of the year to encourage passage of the Work Incentives Improvement Act here in the House. This legislation is vitally important for disabled individuals. Our current system—which actively discourages disabled people from returning to the workforce—simply makes no sense. Allowing disabled people to maintain their health insurance through Medicare when they return to work is something that should have always been law, not something we are finally doing today.

I support that component of this bill which we are here considering today. I am unhappy that it has been weakened from the version that originally passed the House. In that bill, we would have given disabled individuals the ability to keep their Medicare health insurance for 10 years, while the bill before us today only extends that coverage for 8½ years. But, there is no question that this would be a significant improvement from the status quo.

However, there is much more to this bill than the title would suggest. Through late night negotiations, this bill changed. In addition to the provisions relating to the Work Incentive Improvement Act, the bill includes two completely unrelated provisions. The first of these is a 90-day moratorium preventing the Secretary of Health and Human Services from implementing a regulation to improve our organ allocation program in the U.S. Also included is a package of tax extenders that is not fully paid for.

The moratorium on the organ allocation regulation is especially egregious. The regulation is a product of negotiations with the transplant community, patients, and the general public and ensures the sickest patients get organs first—instead of basing life and death decisions on geography.

Republicans included this same 90-day delay of the HHS organ allocation regulations in legislation earlier this year. The President vetoed that bill and cited the organ allocation moratorium as "a highly objectionable provision." After that veto, Congressional budget negotiators and the White House agreed to permit the HHS organ allocation rule to go into effect after a 42-day consultation period. Yet only a few days later, they have decided to renege on that agreement.

Congress has already delayed the HHS rules for over a year—permitting the Institute of Medicine (IoM) to study the current system. The IoM report strongly validates the HHS regulations by calling for broader sharing of organs and for HHS to exercise its "legitimate

oversight responsibilities." Twelve patients die every day while awaiting an organ transplant under the current system. The fact of the matter is this moratorium is a pork barrel project for members of Congress who either represent the federal contractor, or small transplant centers with poorer outcomes who stand to lose under the new regulations. The Secretary's regulation will save lives. This moratorium will cause people to die. Which side do you think is right?

Just like every other bill the Republicans have tried to push through this Congress, the tax extender provisions in the bill give big tax breaks to big business. It includes tens of millions of rifle-shot give-aways to GE—certainly not one of the neediest taxpayers in this country. It also spends \$13 billion to give corporations money for research. Most companies would conduct research on their own regardless of whether or not taxpayers foot the bill. Do you really think that corporations like Schering-Plough would have halted research for their highly profitable drug Claritin if Congress had denied a research tax credit? Companies must conduct research in order to create profits. They don't need tax incentives from Congress to make a profit.

In addition, this bill throws money to the wind through the highly unsuccessful windmill tax credit. There are windmills up and down the highways of California in hopes that they might produce effective forms of electricity. Once again, we're extending \$3 billion in tax breaks to energy companies so that they can continue pouring money into a lofty goal. Coupled with this tax break is one that will provide tax incentives to energy companies who can produce energy from poultry droppings. Why stop at energy? We should give them tax incentives to produce gold from chicken droppings!

Because of these unrelated provisions that were snuck into an otherwise very worthy bill, I am forced to vote against this bill today.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of H.R. 1180, the Work Incentives Improvement Act of 1999. As Chairman of the Committee on Science, I would like to highlight a provision of the bill that is particularly important to our nation's research base: the Research and Development Tax Credit (R&D tax credit).

H.R. 1180 includes the longest ever extension of the R&D tax credit. While I support a permanent extension of the R&D credit, this five-year extension is a step in the right direction. As federal discretionary spending for R&D is squeezed, incentives must be used to maximize private sector innovation and maintain our global leadership in high-tech, high-growth industries that help keep our economy the strongest in the world.

A long-term extension of the credit will aid the research community by creating incentives for private industry to fund research projects. Congress has extended the R&D Tax Credit repeatedly over a period of 18 years. The credit again lapsed on June 30th of this year. This five-year extension will put an end to the start-and-stop approach that has characterized this extension process.

A 1998 Coopers & Lybrand study found that U.S. companies would spend \$41 billion more (in 1998 dollars) on R&D as a result of extending the credit. This in turn would lead to greater innovation from additional R&D investment and would begin to improve productivity

almost immediately, adding more than \$13 billion a year to the economy's productive capacity by the year 2010. The Coopers & Lybrand report went on to note that the R&D tax credit would ultimately pay for itself. "In the long run," the report states, "\$1.75 of additional tax revenue (on a present value basis) would be generated for each dollar the government spends on the credit, creating a win-win situation for both taxpayers and the government."

Last year, the Science Committee released a National Science Policy Study entitled *Unlocking Our Future: Toward A New National Science Policy*. The *Unlocking Our Future* is the most comprehensive study of federal science policies ever conducted by Congress. And the full House passed a resolution adopting its recommendations. One of the study's primary recommendations was the permanent extension of the R&D tax credit. I am pleased that the House today is taking a concrete step toward enacting the study's recommendations.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of H.R. 1180, the conference report on the Ticket to Work and Work Incentives Improvement Act.

This bill will provide a true "Ticket-to-Work" for disabled individuals by bringing them back into the workforce while still providing them with a safety net of government services that are needed to help make the transition. It is an important first step toward addressing the disincentives which exist in current law that discourage disabled individuals from working.

According to a Washington Post article published earlier this year, 6.6 million working-age Americans receive disability checks from the Federal Government every month. All too often, these individuals are unable to return to the workforce. Among the barriers they face upon returning to work is they risk the loss of important federal benefits such as Medicare health care coverage. Under this legislation, individuals would be eligible for up to four and a half additional years of Medicare benefits. While I would have preferred to have individuals eligible for Medicare for an additional six years, I believe this is a positive step forward and that further steps should be taken in the future.

In addition, this bill provides a voucher that individuals can exchange for rehabilitation, employment or other necessary services with their provider of choice.

The Ticket to Work bill will change the Social Security Administration's disability programs for the better. As Tony Young of the United Cerebral Palsy Association said in his testimony before the Ways and Means Committee in March, these programs, "are transformed from a safety net into a trampoline; not only catching people with disabilities as they fall out of work, but also giving them a boost back into work as they are ready."

I urge my colleagues to support this legislation, which is an important step toward helping individuals with disabilities be independent, and to become a vital part of the workforce.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H.R. 1180, the Work Incentives Improvement Act of 1999. I am a cosponsor of this important legislation and was proud to expeditiously move this proposal through my Subcommittee and support its passage through the House Commerce Committee.

My Subcommittee held a hearing at which we heard from federal, state and local officials, as well as individuals living with disabilities. All

of the witnesses emphasized the need for this legislation. They noted that the current system unfairly forces people to choose between work and health care.

H.R. 1180 was introduced in March by our colleagues RICK LAZIO and HENRY WAXMAN, and this bill underscores the positive power of bipartisanship.

The bill removes barriers for individuals who want to work. By encouraging work over welfare, it also promotes personal dignity and self-sufficiency.

Two federal programs—Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)—provide cash benefits to people with disabilities. By qualifying for these benefits, individuals are also eligible for health coverage through Medicare and Medicaid. These programs provide comprehensive services that people with disabilities value and need.

Ironically, individuals with disabilities risk losing these health protections if they enter the work force. Under current law, earnings above a minimal amount trigger the loss of both cash benefits and health coverage under Medicare and Medicaid.

H.R. 1180 would allow states to expand the Medicaid buy-in option to persons with disabilities through two optional programs. The bill also creates a trial program to extend Medicare Part A benefits to SSDI recipients. Further, it provides infrastructure and demonstration grants to assist the states in developing their capacity to run these expanded programs.

Finally, the bill creates a new payment system for vocational rehabilitation programs that serve individuals with disabilities. Similar provisions were passed by the House of representatives last year.

As I have emphasized before, H.R. 1180 will help people help themselves. Approval of this bill by the House of Representatives today is an important step in improving the quality of life for millions of Americans who live with disabilities.

Mr. BENTSEN. Mr. Speaker, I rise today in strong support of the conference report of H.R. 1180, the Work Incentives Improvement Act. This bill includes three separate bills, including the conference report for H.R. 1180, the tax extenders legislation, and a provision related to organ transplantation regulations. I strongly support all three of these proposals and urge my colleagues to support this bill.

I am pleased that the conference report for H.R. 1180 does not include certain provisions related to school-based health services. An earlier version of this bill, as approved by the House, included Section 407 to help offset the costs associated with this bill. Section 407 would be detrimental to our local schools districts who have worked to screen children for Medicaid eligibility. According to the U.S. Census Bureau there are 4.4 million children who are eligible for, but not enrolled in, Medicaid. Under existing laws, public schools can receive reimbursements through the Medicaid Administrative Claiming (MAC) program to help screen for these Medicaid eligible children. I learned about these provisions through the efforts of a local school district, the La Porte Independent School District (PISD). PISD is the lead district for a consortium of 200 small and rural Texas school districts participating in the MAC program. After learning about this provision, I also organized a letter

to Speaker HASTERT in opposition to these off-set provisions. I am pleased that the conference committee has removed all provisions related to school-based health programs that would have been harmful.

I support passage of this measure because it ensures that disabled persons can keep their health insurance when they return to work. Under current law, disabled persons who are eligible for Social Security disability benefits are precluded from earning significant income without losing their Medicare or Medicaid health insurance. This bill would permit disabled persons to work while maintaining their health insurance coverage. For many disabled persons, this health insurance is critically important since they can neither afford nor purchase health insurance in the open market. This bill would provide SSDI beneficiaries with Medicare coverage for eight and ½ years, instead of the current 4-year term. This legislation also provides vocational rehabilitative services to disabled persons, ensuring their access to the training they need to become more self-sufficient. As an original cosponsor of the underlying bill, I support all of these provisions.

This bill also includes a critically important provision related to organ transplantation policy. This bill would impose a 90-day moratorium on the proposed Department of Health and Human Services (HHS) regulations related to organ transplantation policy that would change the current allocation system from a regionally-based system to a national medical-need system. This provision also includes a requirement that HHS must reopen this proposal for public comment about this issue. I am very concerned about the impact of this proposed regulation on organ transplants done at the Texas Medical Center. The Texas Medical Center and the local organ procurement organization, LifeGift, have done an excellent job of encouraging organ donations in our area. The impact of this regulation would be to override the current system which was developed in consultation with our nation's premier transplantation physicians and practitioners. If this new regulation were implemented, many of these organs could possibly be transferred away from the local patients who need them. I am pleased that Congress has acted to provide itself with sufficient time to reauthorize the National Organ Transplant Act (NOTA). The House has already approved this bill, giving the Senate sufficient time to consider and approve a NOTA measure.

This is an important bill which we should approve and I would urge my colleagues to vote for this bill.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of the basic provisions of H.R. 1180, the Work Incentive Improvement Act. The core program contained in this bill is designed to provide support and health care assistance to severely disabled people who want to work despite the obstacles their disabilities present, indeed who are determined to work and become productive and contributing members of society.

These are people who need to keep their health care coverage through Medicaid and Medicare to enable them to stay in the work force. We owe them nothing less.

It is a testament to the compelling nature of their case that this bill has had such broad and bipartisan support in both the House and the Senate. The President has also been

strongly committed to seeing it enacted, from his call to the Congress to enact this program in his State of the Union message last January to the final negotiations to bring this bill here today. And I want to particularly note the contributions of RICK LAZIO, who I was pleased to join as the original sponsor of the bill, NANCY JOHNSON and BOB MATSUI from the Ways and Means Committee, and JOHN DINGELL and CHARLIE RANGEL who served on the conference committee.

We can all be proud of its enactment. I am especially pleased that the conference report increased the funds available to support demonstrations by States to provide health services to persons with potentially severe disabilities in order to keep their health from deteriorating and to allow them to continue to work. Surely, this is one of the most sensible and cost-effective things we can do.

But it is unfortunate that this exemplary piece of legislation has been used in the closing days of this session to pursue other agendas. The conference report includes a rider added to H.R. 1180 through stealth and political extortion which delays vital reforms of our national organ allocation system.

The one-year moratorium on the Department of Health and Human Services' Final Rule expired last month. Last week, the Administration and the appropriators, including Chairman YOUNG and Mr. OBEY, agreed to a final compromise 42-day comment period on the Final Rule's implementation.

But the defenders of UNOS and the status quo weren't satisfied. They twisted arms behind closed doors. They blocked passage of the Health Research and Quality Act of 1999 and the reauthorization of the Substance Abuse and Mental Health Administration. They blocked enactment of critical medical education payments for children's hospitals. And they subverted the authority of the committees of jurisdiction.

Now, the compromise is being abandoned by the Republican leadership. The commitments made to the Administration and to Members have been broken in bad faith.

And what's the result? The 42 days becomes 90 days.

Mr. Speaker, enough is enough.

There is no excuse for this action. The Final Rule is the result of years of deliberation. It embodies the consensus that organs should be shared more broadly to end unjust racial and geographical disparities.

Every day of delay is another day of unconscionable 200 to 300 percent disparities in transplant and survival rates across the country—disparities which the Final Rule addresses.

Every day delays action on the Institute of Medicine's recommendation "that the Final Rule be implemented" because broader sharing "will result in more opportunities to transplant sicker patients without adversely affecting less sick patients."

And every day condones a status quo of gross racial injustice and unjust, parochial self-interest.

Mr. Speaker, the status quo is slowly killing patients who deserve to live, but are deprived of that right by a system that stacks the odds against them. But in spite of this rider, in spite of the delay and the back-room politics, reforms will come. Therefore, I urge my col-

leagues to support the Final Rule and to oppose the organ allocation rider.

Mr. CRANE. Mr. Speaker, I rise in strong support of the tax relief provisions which have been attached to H.R. 1180.

This tax relief package renews several temporary tax relief provisions and addresses other time sensitive tax items.

For example, we give at least one million American families relief from an increase in their alternative minimum tax that would occur when they take advantage of the child tax credit, the dependent care tax credit, or other tax credits. In addition, we renew and extend the exclusion from income for employer-provided educational assistance.

For businesses, we are extending the very valuable research and experimentation (R&E) tax credit for five years while we extend the creditor to Puerto Rico and the other U.S. territories for the first time. The R&E credit will allow U.S. companies to continue to lead the world in innovative, cutting-edge technology.

In an effort to help get Americans off government assistance and into the workplace, we are extending the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit through the end of 2001.

One item that I was particularly grateful to have included in this package is an increase in the rum excise tax cover-over to Puerto Rico and the Virgin Islands from the current \$10.50 per proof gallon to \$13.25 per proof gallon. I was, however, disappointed that the provision did not include language to specifically state that a portion of Puerto Rico's increase is designated for the Conservation Trust Fund of Puerto Rico.

Instead, I understand that an agreement has been reached with the Governor of Puerto Rico to provide one-sixth of the increase to the Trust Fund during the time of the increase of the cover-over (July 1, 1999 through December 31, 2001). I appreciate the support of the Governor in this endeavor. The Conservation Trust Fund, which enjoys tremendous support from the people of Puerto Rico, plays an important role in the preservation of the natural resources of the island for the benefit of her future generations.

Mr. Speaker, I applaud the efforts of our Chairman, BILL ARCHER, in putting together this tax relief package and I urge my colleagues to support it.

Mr. PORTMAN. Mr. Speaker, I rise in support of the tax extender and Ticket to Work package. I commend the Chairman and my colleagues RICK LAZIO of New York and KENNY HULSHOF of Missouri for their leadership on this issue.

So many people with disabilities want to work, and technological as well as medical advances now make it possible for many of them to do so. Unfortunately, the current Social Security Disability program has an inherent number of obstacles and disincentives for people to leave the rolls and seek gainful employment because they will lose cash and critical Medicare benefits.

This proposal before us today is designed to eliminate those obstacles and allow beneficiaries to select from a wider choice of rehabilitation and support services. It also extends health benefits for disabled people returning to work, which has been one of the single biggest challenges for helping people to make this transition.

Specifically, it expands state options under the Medicaid program for workers with disabilities, and it extends Medicare coverage for SSDI beneficiaries.

Importantly, this bill not only will well serve the disabled, and also will save millions of Social Security dollars in the coming years. The key to this bill is that it will provide people with the opportunities and means they have asked us for to become productive members of society. This is a good and fiscally responsible bill.

I'd also like to express my support for the important package of tax extenders contained in this legislation. These extenders—like the R&D tax credit and others—are essential elements in our effort to maintain our strong economy.

I urge my colleagues to support this responsible package.

Mr. KLINK. Mr. Speaker, I rise today in opposition to the inclusion of the provision that stops the Department of Health and Human Services from improving the system of organ allocation in this country. The organ provision was only thrown into this bill at the last minute, and it has no place in this bill.

The current system for organ sharing is not fair and needs to be improved. Organ sharing is a matter of life and death. The problem is that every year people die unnecessarily because the current organ allocation system is broken. We can do better and I urge my colleagues not to let parochial interests get in the way of fixing the problem.

Whether or not you get the organ that will save your life should not depend on where you live. Organs do not and should not belong to any geographical or political entity. But, under the current system, depending on where the organ was harvested, it could be given to someone with years to live—while someone in the next town across the wrong border may die waiting for a transplant.

The most difficult organ to transplant is the liver. Pioneered at the University of Pittsburgh, upwards of 90% of all the liver transplant surgeons today were either trained at Pittsburgh or by doctors who were trained there. Yet facilities like Pittsburgh, Mt. Sinai, Cedars-Sinai, Stanford and other highly regarded transplant centers which take on the most difficult and riskiest transplant patients are struggling with the longest waiting times in the country.

While these centers are highly regarded, many of their patients do not come to them because of their reputations. The fact is that many of their patients only seek them out after having been turned down by their local transplant centers. There is strong evidence to suggest that many smaller transplant centers avoid the riskier transplants on the sicker patients because they are more difficult and would adversely impact their reputations should they not be successful.

This isn't right. Whether you live or die should not depend on where you live.

This debate is not about pitting big transplant centers against small ones, or about pitting one region against another. It is about making sure that the

gift of life goes to the person who needs it the most rather than someone who happens to have the good fortune to live in the right state, county or city. Its about helping at least 300 people each year to continue to live.

The fact is that the current system discriminates against people who live near the highly regarded centers with the longer waiting lists. It's not their fault that their local center is willing to take the harder and sicker patients when other centers avoid the sicker patients in favor of patients who may be still able to work, go to school, or even play golf while patients elsewhere are near death without any opportunity to receive that organ because they have the misfortune of being on the wrong side of the Pennsylvania—Ohio line.

All HHS wants to do is: (1) require UNOS to develop policies that would standardize its criteria for listing patients and for determining their medical status, and (2) ensure that medical urgency, not geography, is the main determinant for allocating organs.

HHS should be allowed to proceed. The longer we delay the more lives are at risk. In this day of modern air travel and communications there is no good reason for an organ to stop at the border. There is no good reason why if I passed away while attending the Superbowl in New Orleans that my liver should go to a golfer in Louisiana when I may have a loved one who is in desperate need of a transplant at home.

People are dying because they happen to live in the wrong zip code and because states do not want to share their organs. Nowhere else in society would we allow a monopoly like this to continue. We must put an end to this craziness. There is no room in this country for politics to affect who lives and dies. The patients who need the organs the most should get them. Period.

The SPEAKER pro tempore (Mr. PEASE). 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. ARCHER. 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 418, nays 2, not voting 15, as follows:

[Roll No. 611]

YEAS—418

Abercrombie	Baldwin	Bentsen
Ackerman	Ballenger	Bereuter
Aderholt	Barclia	Berkley
Allen	Barr	Berman
Andrews	Barrett (NE)	Biggert
Archer	Barrett (WI)	Bilbray
Armey	Bartlett	Bilirakis
Baca	Barton	Bishop
Bachus	Bass	Blagojevich
Baird	Bateman	Bliley
Baldacci	Becerra	Blumenauer

Blunt	Gibbons	Luther
Boehlert	Gilchrest	Maloney (CT)
Boehner	Gillmor	Maloney (NY)
Bonilla	Girman	Manzullo
Bonior	Gonzalez	Markey
Bono	Goode	Martinez
Borski	Goodlatte	Mascara
Boswell	Goodling	Matsui
Boucher	Gordon	McCarthy (MO)
Boyd	Goss	McCarthy (NY)
Brady (PA)	Graham	McCollum
Brown (FL)	Granger	McCreery
Brown (OH)	Green (TX)	McDermott
Bryant	Green (WI)	McGovern
Burr	Greenwood	McHugh
Burton	Gutierrez	McInnis
Buyer	Gutknecht	McIntyre
Calvert	Hall (OH)	McKeon
Camp	Hall (TX)	McKinney
Campbell	Hansen	McNulty
Canady	Hastert	Meehan
Cannon	Hastings (FL)	Meek (FL)
Capuano	Hastings (WA)	Meeke (NY)
Cardin	Hayes	Menendez
Carson	Hayworth	Metcalfe
Castle	Hefley	Mica
Chabot	Herger	Millender-
Chambliss	Hill (IN)	McDonald
Chenoweth-Hage	Hill (MT)	Miller (FL)
Clay	Hilleary	Miller, Gary
Clayton	Hilliard	Miller, George
Clement	Hinches	Minge
Clyburn	Hinojosa	Mink
Coble	Hobson	Moakley
Coburn	Hoefel	Mollohan
Collins	Hoekstra	Moore
Combest	Holden	Moran (KS)
Condit	Holt	Moran (VA)
Cook	Hooley	Morella
Cooksey	Horn	Murtha
Costello	Hostettler	Myrick
Cox	Houghton	Nadler
Coyne	Hoyer	Napolitano
Cramer	Hulshof	Neal
Crane	Hunter	Ney
Crowley	Hutchinson	Northup
Cubin	Hyde	Norwood
Cummings	Instee	Nussle
Cunningham	Isakson	Oberstar
Danner	Istook	Obey
Davis (FL)	Jackson (IL)	Oliver
Davis (IL)	Jackson-Lee	Ortiz
Davis (VA)	(TX)	Ose
Deal	Jefferson	Owens
DeFazio	Jenkins	Oxley
DeGette	John	Packard
DeLahunt	Johnson (CT)	Pallone
DeLauro	Johnson, E. B.	Pascrell
DeLay	Johnson, Sam	Pastor
DeMint	Jones (NC)	Paul
Deutsch	Jones (OH)	Payne
Diaz-Balart	Kanjorski	Pease
Dickey	Kaptur	Pelosi
Dicks	Kasich	Peterson (MN)
Dingell	Kelly	Peterson (PA)
Dixon	Kennedy	Petri
Doggett	Kildee	Phelps
Dooley	Kilpatrick	Pickering
Doolittle	Kind (WI)	Pickett
Doyle	King (NY)	Pitts
Dreier	Kingston	Pombo
Duncan	Kleczka	Pomeroy
Dunn	Klink	Porter
Edwards	Knollenberg	Portman
Ehlers	Kolbe	Price (NC)
Ehrlich	Kucinich	Pryce (OH)
Emerson	Kuykendall	Quinn
Engel	LaFalce	Rahall
English	LaHood	Ramstad
Eshoo	Lampson	Rangel
Etheridge	Lantos	Regula
Evans	Largent	Reyes
Ewing	Larson	Reynolds
Farr	Latham	Riley
Fattah	LaTourette	Rivers
Filner	Lazio	Rodriguez
Foley	Leach	Rocmer
Forbes	Lee	Rogan
Ford	Levin	Rogers
Fossella	Lewis (CA)	Rohrabacher
Fowler	Lewis (GA)	Ros-Lehtinen
Franks (NJ)	Lewis (KY)	Rothman
Frelinghuysen	Linder	Roukema
Frost	Lipinski	Roybal-Allard
Gallagher	LoBiondo	Royce
Ganske	Lofgren	Rush
Gedjenson	Lowey	Ryan (WI)
Gekas	Lucas (KY)	Ryun (KS)
Gephardt	Lucas (OK)	Sabo

Salmon	Souder	Turner
Sanchez	Spence	Udall (CO)
Sanders	Spratt	Udall (NM)
Sandlin	Stabenow	Upton
Sanford	Stearns	Velazquez
Sawyer	Stenholm	Vento
Saxton	Strickland	Visclosky
Scarborough	Stump	Vitter
Schaffer	Stupak	Walden
Schakowsky	Sununu	Walsh
Scott	Sweeney	Wamp
Sensenbrenner	Talent	Waters
Sessions	Tancredo	Tancredo
Shadegg	Tanner	Watt (NC)
Shaw	Tauscher	Watts (OK)
Shays	Tauzin	Waxman
Sherman	Taylor (MS)	Weiner
Sherwood	Taylor (NC)	Weldon (FL)
Shimkus	Terry	Weldon (PA)
Shows	Thomas	Weller
Simpson	Thompson (CA)	Weygand
Sisisky	Thompson (MS)	Whitfield
Skeen	Thornberry	Wicker
Skelton	Thune	Wise
Slaughter	Thurman	Wolf
Smith (MI)	Tiahrt	Woolsey
Smith (NJ)	Tierney	Wu
Smith (TX)	Toomey	Wynn
Smith (WA)	Towns	Young (AK)
Snyder	Traficant	Young (FL)

NAYS—2

Berry

Stark

NOT VOTING—15

Baker  
Brady (TX)  
Callahan  
Capps  
Conyers

Everett	Radanovich
Fletcher	Serrano
Frank (MA)	Shuster
McIntosh	Wexler
Nethercutt	Wilson

□ 1903

Mr. BERRY changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.





PUBLIC LAW 106-170—DEC. 17, 1999

TICKET TO WORK AND WORK INCENTIVES  
IMPROVEMENT ACT OF 1999

Public Law 106-170  
106th Congress

An Act

Dec. 17, 1999  
[H.R. 1180]

Ticket to Work  
and Work  
Incentives  
Improvement Act  
of 1999.  
42 USC 1305  
note.

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Ticket to Work and Work Incentives Improvement Act of 1999”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

**TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS**

**Subtitle A—Ticket to Work and Self-Sufficiency**

Sec. 101. Establishment of the Ticket to Work and Self-Sufficiency Program.

**Subtitle B—Elimination of Work Disincentives**

Sec. 111. Work activity standard as a basis for review of an individual's disabled status.

Sec. 112. Expedited reinstatement of disability benefits.

**Subtitle C—Work Incentives Planning, Assistance, and Outreach**

Sec. 121. Work incentives outreach program.

Sec. 122. State grants for work incentives assistance to disabled beneficiaries.

**TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES**

Sec. 201. Expanding State options under the medicaid program for workers with disabilities.

Sec. 202. Extending medicare coverage for OASDI disability benefit recipients.

Sec. 203. Grants to develop and establish State infrastructures to support working individuals with disabilities.

Sec. 204. Demonstration of coverage under the medicaid program of workers with potentially severe disabilities.

Sec. 205. Election by disabled beneficiaries to suspend medigap insurance when covered under a group health plan.

**TITLE III—DEMONSTRATION PROJECTS AND STUDIES**

Sec. 301. Extension of disability insurance program demonstration project authority.

Sec. 302. Demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 303. Studies and reports.

**TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

Sec. 401. Technical amendments relating to drug addicts and alcoholics.

Sec. 402. Treatment of prisoners.

- Sec. 403. Revocation by members of the clergy of exemption from social security coverage.
- Sec. 404. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.
- Sec. 405. Authorization for State to permit annual wage reports.
- Sec. 406. Assessment on attorneys who receive their fees via the Social Security Administration.
- Sec. 407. Extension of authority of State medicaid fraud control units.
- Sec. 408. Climate database modernization.
- Sec. 409. Special allowance adjustment for student loans.
- Sec. 410. Schedule for payments under SSI state supplementation agreements.
- Sec. 411. Bonus commodities.
- Sec. 412. Simplification of definition of foster child under EIC.
- Sec. 413. Delay of effective date of organ procurement and transplantation network final rule.

## TITLE V—TAX RELIEF EXTENSION ACT OF 1999

- Sec. 500. Short title of title.

## Subtitle A—Extensions

- Sec. 501. Allowance of nonrefundable personal credits against regular and minimum tax liability.
- Sec. 502. Research credit.
- Sec. 503. Subpart F exemption for active financing income.
- Sec. 504. Taxable income limit on percentage depletion for marginal production.
- Sec. 505. Work opportunity credit and welfare-to-work credit.
- Sec. 506. Employer-provided educational assistance.
- Sec. 507. Extension and modification of credit for producing electricity from certain renewable resources.
- Sec. 508. Extension of duty-free treatment under Generalized System of Preferences.
- Sec. 509. Extension of credit for holders of qualified zone academy bonds.
- Sec. 510. Extension of first-time homebuyer credit for District of Columbia.
- Sec. 511. Extension of expensing of environmental remediation costs.
- Sec. 512. Temporary increase in amount of rum excise tax covered over to Puerto Rico and Virgin Islands.

## Subtitle B—Other Time-Sensitive Provisions

- Sec. 521. Advance pricing agreements treated as confidential taxpayer information.
- Sec. 522. Authority to postpone certain tax-related deadlines by reason of Y2K failures.
- Sec. 523. Inclusion of certain vaccines against streptococcus pneumoniae to list of taxable vaccines.
- Sec. 524. Delay in effective date of requirement for approved diesel or kerosene terminals.
- Sec. 525. Production flexibility contract payments.

## Subtitle C—Revenue Offsets

## PART I—GENERAL PROVISIONS

- Sec. 531. Modification of estimated tax safe harbor.
- Sec. 532. Clarification of tax treatment of income and loss on derivatives.
- Sec. 533. Expansion of reporting of cancellation of indebtedness income.
- Sec. 534. Limitation on conversion of character of income from constructive ownership transactions.
- Sec. 535. Treatment of excess pension assets used for retiree health benefits.
- Sec. 536. Modification of installment method and repeal of installment method for accrual method taxpayers.
- Sec. 537. Denial of charitable contribution deduction for transfers associated with split-dollar insurance arrangements.
- Sec. 538. Distributions by a partnership to a corporate partner of stock in another corporation.

## PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS

## SUBPART A—TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES

- Sec. 541. Modifications to asset diversification test.
- Sec. 542. Treatment of income and services provided by taxable REIT subsidiaries.
- Sec. 543. Taxable REIT subsidiary.
- Sec. 544. Limitation on earnings stripping.

- Sec. 545. 100 percent tax on improperly allocated amounts.  
 Sec. 546. Effective date.  
 Sec. 547. Study relating to taxable REIT subsidiaries.

## SUBPART B—HEALTH CARE REITS

- Sec. 551. Health care REITs.

## SUBPART C—CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES

- Sec. 556. Conformity with regulated investment company rules.

## SUBPART D—CLARIFICATION OF EXCEPTION FROM IMPERMISSIBLE TENANT SERVICE INCOME

- Sec. 561. Clarification of exception for independent operators.

## SUBPART E—MODIFICATION OF EARNINGS AND PROFITS RULES

- Sec. 566. Modification of earnings and profits rules.

## SUBPART F—MODIFICATION OF ESTIMATED TAX RULES

- Sec. 571. Modification of estimated tax rules for closely held real estate investment trusts.

42 USC 1320b-  
19 note.

## SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is the policy of the United States to provide assistance to individuals with disabilities to lead productive work lives.

(2) Health care is important to all Americans.

(3) Health care is particularly important to individuals with disabilities and special health care needs who often cannot afford the insurance available to them through the private market, are uninsurable by the plans available in the private sector, and are at great risk of incurring very high and economically devastating health care costs.

(4) Americans with significant disabilities often are unable to obtain health care insurance that provides coverage of the services and supports that enable them to live independently and enter or rejoin the workforce. Personal assistance services (such as attendant services, personal assistance with transportation to and from work, reader services, job coaches, and related assistance) remove many of the barriers between significant disability and work. Coverage for such services, as well as for prescription drugs, durable medical equipment, and basic health care are powerful and proven tools for individuals with significant disabilities to obtain and retain employment.

(5) For individuals with disabilities, the fear of losing health care and related services is one of the greatest barriers keeping the individuals from maximizing their employment, earning potential, and independence.

(6) Social Security Disability Insurance and Supplemental Security Income beneficiaries risk losing medicare or medicaid coverage that is linked to their cash benefits, a risk that is an equal, or greater, work disincentive than the loss of cash benefits associated with working.

(7) Individuals with disabilities have greater opportunities for employment than ever before, aided by important public policy initiatives such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), advancements in public understanding of disability, and innovations in assistive technology, medical treatment, and rehabilitation.

(8) Despite such historic opportunities and the desire of millions of disability recipients to work and support themselves, fewer than one-half of one percent of Social Security Disability

Insurance and Supplemental Security Income beneficiaries leave the disability rolls and return to work.

(9) In addition to the fear of loss of health care coverage, beneficiaries cite financial disincentives to work and earn income and lack of adequate employment training and placement services as barriers to employment.

(10) Eliminating such barriers to work by creating financial incentives to work and by providing individuals with disabilities real choice in obtaining the services and technology they need to find, enter, and maintain employment can greatly improve their short and long-term financial independence and personal well-being.

(11) In addition to the enormous advantages such changes promise for individuals with disabilities, redesigning government programs to help individuals with disabilities return to work may result in significant savings and extend the life of the Social Security Disability Insurance Trust Fund.

(12) If only an additional one-half of one percent of the current Social Security Disability Insurance and Supplemental Security Income recipients were to cease receiving benefits as a result of employment, the savings to the Social Security Trust Funds and to the Treasury in cash assistance would total \$3,500,000,000 over the worklife of such individuals, far exceeding the cost of providing incentives and services needed to assist them in entering work and achieving financial independence to the best of their abilities.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide health care and employment preparation and placement services to individuals with disabilities that will enable those individuals to reduce their dependency on cash benefit programs.

(2) To encourage States to adopt the option of allowing individuals with disabilities to purchase medicaid coverage that is necessary to enable such individuals to maintain employment.

(3) To provide individuals with disabilities the option of maintaining medicare coverage while working.

(4) To establish a return to work ticket program that will allow individuals with disabilities to seek the services necessary to obtain and retain employment and reduce their dependency on cash benefit programs.

## **TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS**

### **Subtitle A—Ticket to Work and Self-Sufficiency**

#### **SEC. 101. ESTABLISHMENT OF THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.**

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

## "THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

Establishment.  
42 USC 1320b-  
19.

"SEC. 1148. (a) IN GENERAL.—The Commissioner shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

## "(b) TICKET SYSTEM.—

"(1) DISTRIBUTION OF TICKETS.—The Commissioner may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

"(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

"(3) TICKET TERMS.—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

"(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

## "(c) STATE PARTICIPATION.—

"(1) IN GENERAL.—Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may elect to participate in the Program as an employment network with respect to a disabled beneficiary. If the State agency does elect to participate in the Program, the State agency also shall elect to be paid under the outcome payment system or the outcome-milestone payment system in accordance with subsection (h)(1). With respect to a disabled beneficiary that the State agency does not elect to have participate in the Program, the State agency shall be paid for services provided to that beneficiary under the system for payment applicable under section 222(d) and subsections (d) and (e) of section 1615. The Commissioner shall provide for periodic opportunities for exercising such elections.

## "(2) EFFECT OF PARTICIPATION BY STATE AGENCY.—

"(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in paragraph (1) elects under that paragraph to participate in the Program, the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets

to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

“(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

“(3) AGREEMENTS BETWEEN STATE AGENCIES AND EMPLOYMENT NETWORKS.—State agencies and employment networks shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an employment network to a State agency for services. The Commissioner shall establish by regulations the timeframe within which such agreements must be entered into and the mechanisms for dispute resolution between State agencies and employment networks with respect to such agreements.

“(d) RESPONSIBILITIES OF THE COMMISSIONER.—

“(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner shall enter into agreements with 1 or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

“(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include—

“(A) measures for ease of access by beneficiaries to services; and

“(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

“(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

“(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager’s agreement; and

“(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager’s agreement.

“(4) SELECTION OF EMPLOYMENT NETWORKS.—

“(A) IN GENERAL.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks



shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

“(B) ALTERNATE PARTICIPANTS.—In any State where the Program is being implemented, the Commissioner shall enter into an agreement with any alternate participant that is operating under the authority of section 222(d)(2) in the State as of the date of the enactment of this section and chooses to serve as an employment network under the Program.

“(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

“(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall solicit and consider the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure that the periodic surveys of beneficiaries receiving services under the Program are designed to measure customer service satisfaction.

“(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

“(e) PROGRAM MANAGERS.—

“(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner’s duties in administering the Program.

“(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager’s agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

“(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks without being deemed to have rejected services under the Program. When such a change occurs, the program manager shall reassign the ticket based on the choice of the beneficiary. Upon the request of the employment network, the program manager shall make a determination of the allocation of the outcome or milestone-outcome payments based on the services provided by each employment network. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible formats.

“(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager’s agreement, including rural areas.

“(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Services provided under the Program may include case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are available in each service area.

“(f) EMPLOYMENT NETWORKS.—

“(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—

“(A) IN GENERAL.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, that assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b).

“(B) ONE-STOP DELIVERY SYSTEMS.—An employment network serving under the Program may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

“(C) COMPLIANCE WITH SELECTION CRITERIA.—No employment network may serve under the Program unless it meets and maintains compliance with both general selection criteria (such as professional and educational qualifications, where applicable) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports).

“(D) SINGLE OR ASSOCIATED PROVIDERS ALLOWED.—An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

“(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

“(A) serve prescribed service areas; and

“(B) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subsection (g).

“(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

“(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

Public  
information.

“(g) INDIVIDUAL WORK PLANS.—

“(1) REQUIREMENTS.—Each employment network shall—

“(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subparagraph (C);

“(B) develop and implement each such individual work plan, in partnership with each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal;

“(C) ensure that each individual work plan includes at least—

“(i) a statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;

“(ii) a statement of the services and supports that have been deemed necessary for the beneficiary to accomplish that goal;

“(iii) a statement of any terms and conditions related to the provision of such services and supports; and

“(iv) a statement of understanding regarding the beneficiary’s rights under the Program (such as the right to retrieve the ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network) and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grant program authorized under section 1150;

“(D) provide a beneficiary the opportunity to amend the individual work plan if a change in circumstances necessitates a change in the plan; and

“(E) make each beneficiary’s individual work plan available to the beneficiary in, as appropriate, an accessible format chosen by the beneficiary.

“(2) EFFECTIVE UPON WRITTEN APPROVAL.—A beneficiary’s individual work plan shall take effect upon written approval by the beneficiary or a representative of the beneficiary and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary’s ticket to work and self-sufficiency.

“(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

“(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

“(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

“(B) NO CHANGE IN METHOD OF PAYMENT FOR BENEFICIARIES WITH TICKETS ALREADY ASSIGNED TO THE EMPLOYMENT NETWORKS.—Any election of a payment system by an employment network that would result in a change in the method of payment to the employment network for services provided to a beneficiary who is receiving services from the employment network at the time of the election shall not be effective with respect to payment for services provided to that beneficiary and the method of payment previously selected shall continue to apply with respect to such services.

“(2) OUTCOME PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual’s outcome payment period, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual because of work or earnings.

“(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

“(i) the payment for each month during the outcome payment period for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

“(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

“(3) OUTCOME-MILESTONE PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure that provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

“(C) LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

“(4) DEFINITIONS.—In this subsection:

“(A) PAYMENT CALCULATION BASE.—The term ‘payment calculation base’ means, for any calendar year—

“(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable

under section 223 for all beneficiaries for months during the preceding calendar year; and

“(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 18 years of age but have not attained 65 years of age.

“(B) OUTCOME PAYMENT PERIOD.—The term ‘outcome payment period’ means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

“(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity; and

“(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity.

“(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

“(A) PERCENTAGES AND PERIODS.—The Commissioner shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner’s review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

“(B) NUMBER AND AMOUNTS OF MILESTONE PAYMENTS.—The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration

would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, or other reliable sources.

Deadline.

“(C) REPORT ON THE ADEQUACY OF INCENTIVES.—The Commissioner shall submit to the Congress not later than 36 months after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999 a report with recommendations for a method or methods to adjust payment rates under subparagraphs (A) and (B), that would ensure adequate incentives for the provision of services by employment networks of—

“(i) individuals with a need for ongoing support and services;

“(ii) individuals with a need for high-cost accommodations;

“(iii) individuals who earn a subminimum wage; and

“(iv) individuals who work and receive partial cash benefits.

The Commissioner shall consult with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 during the development and evaluation of the study. The Commissioner shall implement the necessary adjusted payment rates prior to full implementation of the Ticket to Work and Self-Sufficiency Program.

“(i) SUSPENSION OF DISABILITY REVIEWS.—During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.

“(j) AUTHORIZATIONS.—

“(1) PAYMENTS TO EMPLOYMENT NETWORKS.—

“(A) TITLE II DISABILITY BENEFICIARIES.—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to make payments to employment networks under this section. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund.

“(B) TITLE XVI DISABILITY BENEFICIARIES.—Amounts authorized to be appropriated to the Social Security

Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

“(2) ADMINISTRATIVE EXPENSES.—The costs of administering this section (other than payments to employment networks) shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among such amounts as appropriate.

“(k) DEFINITIONS.—In this section:

“(1) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means a title II disability beneficiary or a title XVI disability beneficiary.

“(3) TITLE II DISABILITY BENEFICIARY.—The term ‘title II disability beneficiary’ means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

“(4) TITLE XVI DISABILITY BENEFICIARY.—The term ‘title XVI disability beneficiary’ means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

“(5) SUPPLEMENTAL SECURITY INCOME BENEFIT.—The term ‘supplemental security income benefit under title XVI’ means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

“(l) REGULATIONS.—Not later than 1 year after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999, the Commissioner shall prescribe such regulations as are necessary to carry out the provisions of this section.” Deadline.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) is amended by adding at the end the following new paragraph:

“(5) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).”

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section



1148 or another program of vocational rehabilitation services, employment services, or other support services”.

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 16; and

“(2) with respect to whom benefits are paid under this title,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.”

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services”.

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting “(1)” after “(c)”; and

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

“(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).”

42 USC 1320b-19 note.

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following 1 year after the date of the enactment of this Act.

42 USC 1320b-19 note.  
Deadline.

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) REQUIREMENTS.—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) FULL IMPLEMENTATION.—The Commissioner shall ensure that ability to provide tickets and services to individuals under the Program exists in every State as soon as practicable on or after the effective date specified in subsection (c) but not later than 3 years after such date.

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall provide for independent evaluations to assess the effectiveness of the activities carried out under this section and the amendments made thereby. Such evaluations shall address the cost-effectiveness of such activities, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) CONSULTATION.—Evaluations shall be conducted under this paragraph after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program and in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, the Comptroller General of the United States, other agencies of the Federal Government, and private organizations with appropriate expertise.

(C) METHODOLOGY.—

(i) IMPLEMENTATION.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, shall ensure that plans for evaluations and data collection methods under the Program are appropriately designed to obtain detailed employment information.

(ii) SPECIFIC MATTERS TO BE ADDRESSED.—Each such evaluation shall address (but is not limited to)—

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving

tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of individuals in possession of tickets under the Program who are not accepted for services and, to the extent reasonably determinable, the reasons for which such beneficiaries were not accepted for services;

(VII) the characteristics of providers whose services are provided within an employment network under the Program;

(VIII) the extent (if any) to which employment networks display a greater willingness to provide services to beneficiaries with a range of disabilities;

(IX) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(X) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(XI) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of their tickets.

(D) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

(A) IN GENERAL.—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) of the Social Security Act (42 U.S.C. 422(a)) for prompt referrals to a State agency; and

(ii) the authority of the Commissioner under section 222(d)(2) of such Act (42 U.S.C. 422(d)(2)) to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals, shall apply in such State.

(B) EXISTING AGREEMENTS.—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act (42 U.S.C. 422(d)(2)) before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to services (if any) to be provided after 3 years after the effective date provided in subsection (c).

(e) SPECIFIC REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

42 USC 1320b-19 note.

(2) SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.—The matters which shall be addressed in such regulations shall include—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1148(b)(1) of the Social Security Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of such Act and provision for periodic opportunities for exercising such elections;

(D) the status of State agencies under section 1148(c)(1) of such Act at the time that State agencies exercise elections under that section;

(E) the terms of agreements to be entered into with program managers pursuant to section 1148(d) of such Act, including—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1148(d)(3) of such Act;

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1148(d) of such Act and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1148(e) of such Act; and

(iii) the format under which dispute resolution will operate under section 1148(d)(7) of such Act;

(F) the terms of agreements to be entered into with employment networks pursuant to section 1148(d)(4) of such Act, including—

(i) the manner in which service areas are specified pursuant to section 1148(f)(2)(A) of such Act;

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1148(f)(1)(C) of such Act in selecting service providers;

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1148(f)(3) of such Act; and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1148(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1148(g) of such Act;

(H) standards which must be met by payment systems required under section 1148(h) of such Act, including—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1148(h)(1)(A) of such Act;

(ii) the terms which must be met by an outcome payment system under section 1148(h)(2) of such Act;

(iii) the terms which must be met by an outcome-milestone payment system under section 1148(h)(3) of such Act;

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1148(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1148(h) of such Act; and

(v) annual oversight procedures for such systems;

and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

42 USC 1320b-19 note.

(f) THE TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established within the Social Security Administration a panel to be known as the “Ticket to Work and Work Incentives Advisory Panel” (in this subsection referred to as the “Panel”).

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the President, the Congress, and the Commissioner of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act (42 U.S.C. 401 et seq., 1301 et seq., 1381 et seq., 1395 et seq., 1396 et seq.); and

(B) with respect to the Ticket to Work and Self-Sufficiency Program established under section 1148 of such Act—

(i) advise the Commissioner of Social Security with respect to establishing phase-in sites for such Program and fully implementing the Program thereafter, the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems, and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program;

(ii) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to section 302 of this Act;

(iii) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1148(d)(6) of the Social Security Act; and

(iv) furnish progress reports on the Program to the Commissioner and each House of Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 12 members as follows:

(i) four members appointed by the President, not more than two of whom may be of the same political party;

(ii) two members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives;

(iii) two members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Committee on Ways and Means of the House of Representatives;

(iv) two members appointed by the majority leader of the Senate, in consultation with the Chairman of the Committee on Finance of the Senate; and

(v) two members appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Finance of the Senate.

(B) REPRESENTATION.—

(i) IN GENERAL.—The members appointed under subparagraph (A) shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services.

(ii) REQUIREMENT.—At least one-half of the members appointed under subparagraph (A) shall be individuals with disabilities, or representatives of individuals with disabilities, with consideration given to current or former title II disability beneficiaries or title XVI disability beneficiaries (as such terms are defined in section 1148(k) of the Social Security Act (as added by subsection (a))).

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed under each clause of subparagraph (A), as designated by the appointing authority for each such clause—

(I) one-half of such members shall be appointed for a term of 2 years; and

(II) the remaining members shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) BASIC PAY.—Members shall each be paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) QUORUM.—Eight members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—

(A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Chairperson, and paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) STAFF.—Subject to rules prescribed by the Commissioner of Social Security, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commissioner of Social Security, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

**(6) REPORTS.—**

**(A) INTERIM REPORTS.—**The Panel shall submit to the President and the Congress interim reports at least annually.

**(B) FINAL REPORT.—**The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

**(7) TERMINATION.—**The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

**(8) AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

## **Subtitle B—Elimination of Work Disincentives**

### **SEC. 111. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS.**

**(a) IN GENERAL.—**Section 221 of the Social Security Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

“(m)(1) In any case where an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)) has received such benefits for at least 24 months—

“(A) no continuing disability review conducted by the Commissioner may be scheduled for the individual solely as a result of the individual’s work activity;

“(B) no work activity engaged in by the individual may be used as evidence that the individual is no longer disabled; and

“(C) no cessation of work activity by the individual may give rise to a presumption that the individual is unable to engage in work.

“(2) An individual to which paragraph (1) applies shall continue to be subject to—

“(A) continuing disability reviews on a regularly scheduled basis that is not triggered by work; and

“(B) termination of benefits under this title in the event that the individual has earnings that exceed the level of earnings established by the Commissioner to represent substantial gainful activity.”

**(b) EFFECTIVE DATE.—**The amendment made by subsection (a) shall take effect on January 1, 2002. 42 USC 421 note.

### **SEC. 112. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS.**

**(a) OASDI BENEFITS.—**Section 223 of the Social Security Act (42 U.S.C. 423) is amended—



- (1) by redesignating subsection (i) as subsection (j); and  
 (2) by inserting after subsection (h) the following new subsection:

“Reinstatement of Entitlement

“(i)(1)(A) Entitlement to benefits described in subparagraph (B)(i)(I) shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of such entitlement shall be in accordance with the terms of this subsection.

“(B) An individual is described in this subparagraph if—

“(i) prior to the month in which the individual files a request for reinstatement—

“(I) the individual was entitled to benefits under this section or section 202 on the basis of disability pursuant to an application filed therefor; and

“(II) such entitlement terminated due to the performance of substantial gainful activity;

“(ii) the individual is under a disability and the physical or mental impairment that is the basis for the finding of disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of disability that gave rise to the entitlement described in clause (i); and

“(iii) the individual’s disability renders the individual unable to perform substantial gainful activity.

“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was entitled to a benefit described in subparagraph (B)(i)(I) prior to the entitlement termination described in subparagraph (B)(i)(II).

“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) and (iii) of paragraph (1)(B).

“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not entitled to reinstated benefits under this subsection.

“(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of subsection (f) shall apply.

“(4)(A)(i) Subject to clause (ii), entitlement to benefits reinstated under this subsection shall commence with the benefit payable for the month in which a request for reinstatement is filed.

“(ii) An individual whose entitlement to a benefit for any month would have been reinstated under this subsection had the individual filed a request for reinstatement before the end of such month

shall be entitled to such benefit for such month if such request for reinstatement is filed before the end of the twelfth month immediately succeeding such month.

“(B)(i) Subject to clauses (ii) and (iii), the amount of the benefit payable for any month pursuant to the reinstatement of entitlement under this subsection shall be determined in accordance with the provisions of this title.

“(ii) For purposes of computing the primary insurance amount of an individual whose entitlement to benefits under this section is reinstated under this subsection, the date of onset of the individual’s disability shall be the date of onset used in determining the individual’s most recent period of disability arising in connection with such benefits payable on the basis of an application.

“(iii) Benefits under this section or section 202 payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

“(C) No benefit shall be payable pursuant to an entitlement reinstated under this subsection to an individual for any month in which the individual engages in substantial gainful activity.

“(D) The entitlement of any individual that is reinstated under this subsection shall end with the benefits payable for the month preceding whichever of the following months is the earliest:

“(i) The month in which the individual dies.

“(ii) The month in which the individual attains retirement age.

“(iii) The third month following the month in which the individual’s disability ceases.

“(5) Whenever an individual’s entitlement to benefits under this section is reinstated under this subsection, entitlement to benefits payable on the basis of such individual’s wages and self-employment income may be reinstated with respect to any person previously entitled to such benefits on the basis of an application if the Commissioner determines that such person satisfies all the requirements for entitlement to such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated entitlement of any such person to the same extent that they apply to the reinstated entitlement of such individual.

“(6) An individual to whom benefits are payable under this section or section 202 pursuant to a reinstatement of entitlement under this subsection for 24 months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) and the determination, if appropriate, of the termination month in accordance with subsection (a)(1) of this section, or subsection (d)(1), (e)(1), or (f)(1) of section 202, to be entitled to such benefits on the basis of an application filed therefor.

“(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be entitled to provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner

shall be final and not subject to review under subsection (b) or (g) of section 205.

“(B) The amount of a provisional benefit for a month shall equal the amount of the last monthly benefit payable to the individual under this title on the basis of an application increased by an amount equal to the amount, if any, by which such last monthly benefit would have been increased as a result of the operation of section 215(i).

“(C)(i) Provisional benefits shall begin with the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

“(ii) Provisional benefits shall end with the earliest of—

“(I) the month in which the Commissioner makes a determination regarding the individual’s entitlement to reinstated benefits;

“(II) the fifth month following the month described in clause (i);

“(III) the month in which the individual performs substantial gainful activity; or

“(IV) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration made in accordance with paragraph (2)(A)(ii) is false.

“(D) In any case in which the Commissioner determines that an individual is not entitled to reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).”

(b) SSI BENEFITS.—

(1) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

“Reinstatement of Eligibility on the Basis of Blindness or Disability

“(p)(1)(A) Eligibility for benefits under this title shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of eligibility shall be in accordance with the terms of this subsection.

“(B) An individual is described in this subparagraph if—

“(i) prior to the month in which the individual files a request for reinstatement—

“(I) the individual was eligible for benefits under this title on the basis of blindness or disability pursuant to an application filed therefor; and

“(II) the individual thereafter was ineligible for such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;

“(ii) the individual is blind or disabled and the physical or mental impairment that is the basis for the finding of blindness or disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of blindness or disability that gave rise to the eligibility described in clause (i);

“(iii) the individual’s blindness or disability renders the individual unable to perform substantial gainful activity; and

“(iv) the individual satisfies the nonmedical requirements for eligibility for benefits under this title.

“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was eligible for a benefit under this title (including section 1619) prior to the period of ineligibility described in subparagraph (B)(i)(II).

“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) through (iv) of paragraph (1)(B).

“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this subsection.

“(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of section 1614(a)(4) shall apply.

“(4)(A) Eligibility for benefits reinstated under this subsection shall commence with the benefit payable for the month following the month in which a request for reinstatement is filed.

“(B)(i) Subject to clause (ii), the amount of the benefit payable for any month pursuant to the reinstatement of eligibility under this subsection shall be determined in accordance with the provisions of this title.

“(ii) The benefit under this title payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

“(C) Except as otherwise provided in this subsection, eligibility for benefits under this title reinstated pursuant to a request filed under paragraph (2) shall be subject to the same terms and conditions as eligibility established pursuant to an application filed therefor.

“(5) Whenever an individual’s eligibility for benefits under this title is reinstated under this subsection, eligibility for such benefits shall be reinstated with respect to the individual’s spouse if such spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements for eligibility for such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.

“(6) An individual to whom benefits are payable under this title pursuant to a reinstatement of eligibility under this subsection for twenty-four months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be

deemed for purposes of paragraph (1)(B)(i)(I) to be eligible for such benefits on the basis of an application filed therefor.

“(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c).

“(B)(i) Except as otherwise provided in clause (ii), the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual under this title with the same kind and amount of income.

“(ii) If the individual has a spouse who was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements of section 1614(b) except requirements related to the filing of an application, the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual and eligible spouse under this title with the same kind and amount of income.

“(C)(i) Provisional benefits shall begin with the month following the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

“(ii) Provisional benefits shall end with the earliest of—

“(I) the month in which the Commissioner makes a determination regarding the individual’s eligibility for reinstated benefits;

“(II) the fifth month following the month for which provisional benefits are first payable under clause (i); or

“(III) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual’s declaration made in accordance with paragraph (2)(A)(ii) is false.

“(D) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

“(8) For purposes of this subsection other than paragraph (7), the term ‘benefits under this title’ includes State supplementary payments made pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1631(j)(1) of such Act (42 U.S.C. 1383(j)(1)) is amended by striking the period and inserting “, or has filed a request for reinstatement of eligibility under subsection (p)(2) and been determined to be eligible for reinstatement.”.

(B) Section 1631(j)(2)(A)(i)(I) of such Act (42 U.S.C. 1383(j)(2)(A)(i)(I)) is amended by inserting “(other than pursuant to a request for reinstatement under subsection (p))” after “eligible”.

(c) EFFECTIVE DATE.—

(1) **IN GENERAL.**—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(2) **LIMITATION.**—No benefit shall be payable under title II or XVI on the basis of a request for reinstatement filed under section 223(i) or 1631(p) of the Social Security Act (42 U.S.C. 423(i), 1383(p)) before the effective date described in paragraph (1).

## **Subtitle C—Work Incentives Planning, Assistance, and Outreach**

### **SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.**

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 101 of this Act, is amended by adding after section 1148 the following new section:

#### **“WORK INCENTIVES OUTREACH PROGRAM**

**“SEC. 1149. (a) ESTABLISHMENT.—**

**“(1) IN GENERAL.—**The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, shall establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to disabled beneficiaries on work incentives programs and issues related to such programs.

**“(2) GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND OUTREACH.—**Under the program established under this section, the Commissioner shall—

**“(A)** establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148, the program established under section 1619, and other programs that are designed to encourage disabled beneficiaries to work;

**“(B)** conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts to disabled beneficiaries (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist disabled beneficiaries to work, including—

**“(i)** preparing and disseminating information explaining such programs; and

**“(ii)** working in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve disabled beneficiaries, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling;

**“(C)** establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security

42 USC 1320b-  
20.

Administration who will specialize in disability work incentives under titles II and XVI for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to—

“(i) disabled beneficiaries;

“(ii) benefit applicants under titles II and XVI;

and

“(iii) individuals or entities awarded grants under subparagraphs (A) or (B); and

“(D) provide—

“(i) training for work incentives specialists and individuals providing planning assistance described in subparagraph (C); and

“(ii) technical assistance to organizations and entities that are designed to encourage disabled beneficiaries to return to work.

“(3) COORDINATION WITH OTHER PROGRAMS.—The responsibilities of the Commissioner established under this section shall be coordinated with other public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for disabled beneficiaries including the program under section 1619, the plans for achieving self-support program (PASS), and any other Federal or State work incentives programs that are designed to assist disabled beneficiaries, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), and other services.

“(b) CONDITIONS.—

“(1) SELECTION OF ENTITIES.—

“(A) APPLICATION.—An entity shall submit an application for a grant, cooperative agreement, or contract to provide benefits planning and assistance to the Commissioner at such time, in such manner, and containing such information as the Commissioner may determine is necessary to meet the requirements of this section.

“(B) STATEWIDENESS.—The Commissioner shall ensure that the planning, assistance, and information described in paragraph (2) shall be available on a statewide basis.

“(C) ELIGIBILITY OF STATES AND PRIVATE ORGANIZATIONS.—

“(i) IN GENERAL.—The Commissioner may award a grant, cooperative agreement, or contract under this section to a State or a private agency or organization (other than Social Security Administration Field Offices and the State agency administering the State medicaid program under title XIX, including any agency or entity described in clause (ii), that the Commissioner determines is qualified to provide the planning, assistance, and information described in paragraph (2)).

“(ii) AGENCIES AND ENTITIES DESCRIBED.—The agencies and entities described in this clause are the following:

“(I) Any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732), and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the Commissioner determines satisfies the requirements of this section.

“(II) The State agency administering the State program funded under part A of title IV.

“(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to any entity that the Commissioner determines would have a conflict of interest if the entity were to receive a grant, cooperative agreement, or contract under this section.

“(2) SERVICES PROVIDED.—A recipient of a grant, cooperative agreement, or contract to provide benefits planning and assistance shall select individuals who will act as planners and provide information, guidance, and planning to disabled beneficiaries on the—

“(A) availability and interrelation of any Federal or State work incentives programs designed to assist disabled beneficiaries that the individual may be eligible to participate in;

“(B) adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health benefits coverage may be available to the individual; and

“(C) availability of protection and advocacy services for disabled beneficiaries and how to access such services.

“(3) AMOUNT OF GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—

“(A) BASED ON POPULATION OF DISABLED BENEFICIARIES.—Subject to subparagraph (B), the Commissioner shall award a grant, cooperative agreement, or contract under this section to an entity based on the percentage of the population of the State where the entity is located who are disabled beneficiaries.

“(B) LIMITATIONS.—

“(i) PER GRANT.—No entity shall receive a grant, cooperative agreement, or contract under this section for a fiscal year that is less than \$50,000 or more than \$300,000.

“(ii) TOTAL AMOUNT FOR ALL GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed \$23,000,000.



“(4) ALLOCATION OF COSTS.—The costs of carrying out this section shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

“(c) DEFINITIONS.—In this section:

“(1) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ has the meaning given that term in section 1148(k)(2).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$23,000,000 for each of the fiscal years 2000 through 2004.”

**SEC. 122. STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES.**

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 121 of this Act, is amended by adding after section 1149 the following new section:

**“STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES**

42 USC 1320b-21.

“SEC. 1150. (a) IN GENERAL.—Subject to subsection (c), the Commissioner may make payments in each State to the protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) for the purpose of providing services to disabled beneficiaries.

“(b) SERVICES PROVIDED.—Services provided to disabled beneficiaries pursuant to a payment made under this section may include—

“(1) information and advice about obtaining vocational rehabilitation and employment services; and

“(2) advocacy or other services that a disabled beneficiary may need to secure or regain gainful employment.

“(c) APPLICATION.—In order to receive payments under this section, a protection and advocacy system shall submit an application to the Commissioner, at such time, in such form and manner, and accompanied by such information and assurances as the Commissioner may require.

“(d) AMOUNT OF PAYMENTS.—

“(1) IN GENERAL.—Subject to the amount appropriated for a fiscal year for making payments under this section, a protection and advocacy system shall not be paid an amount that is less than—

“(A) in the case of a protection and advocacy system located in a State (including the District of Columbia and Puerto Rico) other than Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the greater of—

“(i) \$100,000; or

“(ii)  $\frac{1}{3}$  of 1 percent of the amount available for payments under this section; and

“(B) in the case of a protection and advocacy system located in Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, \$50,000.

“(2) INFLATION ADJUSTMENT.—For each fiscal year in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section in the preceding fiscal year, the Commissioner shall increase each minimum payment under subparagraphs (A) and (B) of paragraph (1) by a percentage equal to the percentage increase in the total amount so appropriated to carry out this section.

“(e) ANNUAL REPORT.—Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Commissioner and the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 on the services provided to individuals by the system.

“(f) FUNDING.—

“(1) ALLOCATION OF PAYMENTS.—Payments under this section shall be made from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

“(2) CARRYOVER.—Any amounts allotted for payment to a protection and advocacy system under this section for a fiscal year shall remain available for payment to or on behalf of the protection and advocacy system until the end of the succeeding fiscal year.

“(g) DEFINITIONS.—In this section:

“(1) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ has the meaning given that term in section 1148(k)(2).

“(3) PROTECTION AND ADVOCACY SYSTEM.—The term ‘protection and advocacy system’ means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.).

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$7,000,000 for each of the fiscal years 2000 through 2004.”

## TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES

### SEC. 201. EXPANDING STATE OPTIONS UNDER THE MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES.

(a) IN GENERAL.—

(1) STATE OPTION TO ELIMINATE INCOME, ASSETS, AND RESOURCE LIMITATIONS FOR WORKERS WITH DISABILITIES BUYING INTO MEDICAID.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

- (A) in subclause (XIII), by striking “or” at the end;
- (B) in subclause (XIV), by adding “or” at the end;

and

- (C) by adding at the end the following new subclause:
  - “(XV) who, but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income, who is at least 16, but less than

65, years of age, and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish;”.

(2) STATE OPTION TO PROVIDE OPPORTUNITY FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY TO BUY INTO MEDICAID.—

(A) ELIGIBILITY.—Section 1902(a)(10) (A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1), is amended—

- (i) in subclause (XIV), by striking “or” at the end;
  - (ii) in subclause (XV), by adding “or” at the end;
- and
- (iii) by adding at the end the following new subclause:

“(XVI) who are employed individuals with a medically improved disability described in section 1905(v)(1) and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish, but only if the State provides medical assistance to individuals described in subclause (XV);”.

(B) DEFINITION OF EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

“(v)(1) The term ‘employed individual with a medically improved disability’ means an individual who—

“(A) is at least 16, but less than 65, years of age;

“(B) is employed (as defined in paragraph (2));

“(C) ceases to be eligible for medical assistance under section 1902(a)(10)(A)(ii)(XV) because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits under section 223(d) or 1614(a)(3); and

“(D) continues to have a severe medically determinable impairment, as determined under regulations of the Secretary.

“(2) For purposes of paragraph (1), an individual is considered to be ‘employed’ if the individual—

“(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month;

or

“(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined by the State and approved by the Secretary.”.

(C) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (x), by striking “or” at the end;

(ii) in clause (xi), by adding “or” at the end; and

(iii) by inserting after clause (xi), the following

new clause:

“(xii) employed individuals with a medically improved disability (as defined in subsection (v)).”.

(3) STATE AUTHORITY TO IMPOSE INCOME-RELATED PREMIUMS AND COST-SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking “The State plan” and inserting “Subject to subsection (g), the State plan”; and

(B) by adding at the end the following new subsection:  
“(g) With respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii)—  
“(1) a State may (in a uniform manner for individuals described in either such subclause)—

“(A) require such individuals to pay premiums or other cost-sharing charges set on a sliding scale based on income that the State may determine; and

“(B) require payment of 100 percent of such premiums for such year in the case of such an individual who has income for a year that exceeds 250 percent of the income official poverty line (referred to in subsection (c)(1)) applicable to a family of the size involved, except that in the case of such an individual who has income for a year that does not exceed 450 percent of such poverty line, such requirement may only apply to the extent such premiums do not exceed 7.5 percent of such income; and

“(2) such State shall require payment of 100 percent of such premiums for a year by such an individual whose adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for such year exceeds \$75,000, except that a State may choose to subsidize such premiums by using State funds which may not be federally matched under this title. In the case of any calendar year beginning after 2000, the dollar amount specified in paragraph (2) shall be increased in accordance with the provisions of section 215(i)(2)(A)(ii).”

(4) PROHIBITION AGAINST SUPPLANTATION OF STATE FUNDS AND STATE FAILURE TO MAINTAIN EFFORT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (19) and inserting “; or”; and

(B) by inserting after such paragraph the following new paragraph:

“(20) with respect to amounts expended for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) for a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the level of State funds expended for such fiscal year for programs to enable working individuals with disabilities to work (other than for such medical assistance) is not less than the level expended for such programs during the most recent State fiscal year ending before the date of the enactment of this paragraph.”

(b) CONFORMING AMENDMENTS.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by inserting “1902(a)(10)(A)(ii)(XV), 1902(a)(10)(A)(ii)(XVI),” before “1905(p)(1).”

(c) GAO REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the amendments made by this section that examines—

Deadline.  
42 USC 1396a  
note.

(1) the extent to which higher health care costs for individuals with disabilities at higher income levels deter employment or progress in employment;

(2) whether such individuals have health insurance coverage or could benefit from the State option established under such amendments to provide a medicaid buy-in; and

(3) how the States are exercising such option, including—

(A) how such States are exercising the flexibility afforded them with regard to income disregards;

(B) what income and premium levels have been set;

(C) the degree to which States are subsidizing premiums above the dollar amount specified in section 1916(g)(2) of the Social Security Act (42 U.S.C. 1396o(g)(2)); and

(D) the extent to which there exists any crowd-out effect.

42 USC 1396a  
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000.

**SEC. 202. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS.**

(a) **IN GENERAL.**—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended by striking “24” and inserting “78”.

42 USC 426 note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective on and after October 1, 2000.

42 USC 426 note.

(c) **GAO REPORT.**—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress that—

(1) examines the effectiveness and cost of the amendment made by subsection (a);

(2) examines the necessity and effectiveness of providing continuation of medicare coverage under section 226(b) of the Social Security Act (42 U.S.C. 426(b)) to individuals whose annual income exceeds the contribution and benefit base (as determined under section 230 of such Act (42 U.S.C. 430));

(3) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a sliding scale premium for individuals whose annual income exceeds such contribution and benefit base;

(4) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a premium buy-in by the beneficiary's employer in lieu of coverage under private health insurance;

(5) examines the interrelation between the use of the continuation of medicare coverage under such section 226(b) and the use of private health insurance coverage by individuals during the extended period; and

(6) recommends such legislative or administrative changes relating to the continuation of medicare coverage for recipients of social security disability benefits as the Comptroller General determines are appropriate.

42 USC 1320b-  
22.

**SEC. 203. GRANTS TO DEVELOP AND ESTABLISH STATE INFRASTRUCTURES TO SUPPORT WORKING INDIVIDUALS WITH DISABILITIES.**

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall award grants described in subsection (b) to States to support the design, establishment, and operation of State infrastructures that provide items and services to support working individuals with disabilities.

(2) **APPLICATION.**—In order to be eligible for an award of a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

(3) **DEFINITION OF STATE.**—In this section, the term “State” means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) **GRANTS FOR INFRASTRUCTURE AND OUTREACH.**—

(1) **IN GENERAL.**—Out of the funds appropriated under subsection (e), the Secretary shall award grants to States to—

(A) support the establishment, implementation, and operation of the State infrastructures described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such infrastructures.

(2) **ELIGIBILITY FOR GRANTS.**—

(A) **IN GENERAL.**—No State may receive a grant under this subsection unless the State demonstrates to the satisfaction of the Secretary that the State makes personal assistance services available under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to the extent necessary to enable individuals with disabilities to remain employed, including individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) if the State has elected to provide medical assistance under such plan to such individuals.

(B) **DEFINITIONS.**—In this section:

(i) **EMPLOYED.**—The term “employed” means—

(I) earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(II) being engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined and approved by the Secretary.

(ii) **PERSONAL ASSISTANCE SERVICES.**—The term “personal assistance services” means a range of services, provided by 1 or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual’s control in life and ability to perform everyday activities on or off the job.

(3) **DETERMINATION OF AWARDS.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary shall develop a methodology for awarding grants

to States under this section for a fiscal year in a manner that—

(i) rewards States for their efforts in encouraging individuals described in paragraph (2)(A) to be employed; and

(ii) does not provide a State that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) with proportionally more funds for a fiscal year than a State that has exercised such election.

(B) AWARD LIMITS.—

(i) MINIMUM AWARDS.—

(I) IN GENERAL.—Subject to subclause (II), no State with an approved application under this section shall receive a grant for a fiscal year that is less than \$500,000.

(II) PRO RATA REDUCTIONS.—If the funds appropriated under subsection (e) for a fiscal year are not sufficient to pay each State with an application approved under this section the minimum amount described in subclause (I), the Secretary shall pay each such State an amount equal to the pro rata share of the amount made available.

(ii) MAXIMUM AWARDS.—

(I) STATES THAT ELECTED OPTIONAL MEDICAID ELIGIBILITY.—No State that has an application that has been approved under this section and that has elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) shall receive a grant for a fiscal year that exceeds 10 percent of the total expenditures by the State (including the reimbursed Federal share of such expenditures) for medical assistance provided under such title for such individuals, as estimated by the State and approved by the Secretary.

(II) OTHER STATES.—The Secretary shall determine, consistent with the limit described in subclause (I), a maximum award limit for a grant for a fiscal year for a State that has an application that has been approved under this section but that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)).

(c) AVAILABILITY OF FUNDS.—

(1) FUNDS AWARDED TO STATES.—Funds awarded to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT AWARDED TO STATES.—Funds not awarded to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for awarding by the Secretary.

(d) **ANNUAL REPORT.**—A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of title II disability beneficiaries, as defined in section 1148(k)(3) of the Social Security Act (as added by section 101(a) of this Act) in the State, and title XVI disability beneficiaries, as defined in section 1148(k)(4) of the Social Security Act (as so added) in the State who return to work.

(e) **APPROPRIATION.**—

(1) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to make grants under this section—

(A) for fiscal year 2001, \$20,000,000;

(B) for fiscal year 2002, \$25,000,000;

(C) for fiscal year 2003, \$30,000,000;

(D) for fiscal year 2004, \$35,000,000;

(E) for fiscal year 2005, \$40,000,000; and

(F) for each of fiscal years 2006 through 2011, the amount appropriated for the preceding fiscal year increased by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers (United States city average) for the preceding fiscal year.

(2) **BUDGET AUTHORITY.**—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under paragraph (1).

(f) **RECOMMENDATION.**—Not later than October 1, 2010, the Secretary, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of this Act, shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the grant program established under this section should be continued after fiscal year 2011.

Deadline.

**SEC. 204. DEMONSTRATION OF COVERAGE UNDER THE MEDICAID PROGRAM OF WORKERS WITH POTENTIALLY SEVERE DISABILITIES.**

42 USC 1396a note.

(a) **STATE APPLICATION.**—A State may apply to the Secretary of Health and Human Services (in this section referred to as the “Secretary”) for approval of a demonstration project (in this section referred to as a “demonstration project”) under which up to a specified maximum number of individuals who are workers with a potentially severe disability (as defined in subsection (b)(1)) are provided medical assistance equal to—

(1) that provided under section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)); or

(2) in the case of a State that has not elected to provide medical assistance under that section to such individuals, such medical assistance as the Secretary determines is an appropriate equivalent to the medical assistance described in paragraph (1).

(b) **WORKER WITH A POTENTIALLY SEVERE DISABILITY DEFINED.**—For purposes of this section—



(1) **IN GENERAL.**—The term “worker with a potentially severe disability” means, with respect to a demonstration project, an individual who—

(A) is at least 16, but less than 65, years of age;

(B) has a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected, but for the receipt of items and services described in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), to become blind or disabled (as defined under section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

(C) is employed (as defined in paragraph (2)).

(2) **DEFINITION OF EMPLOYED.**—An individual is considered to be “employed” if the individual—

(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined under the demonstration project and approved by the Secretary.

(c) **APPROVAL OF DEMONSTRATION PROJECTS.**—

(1) **IN GENERAL.**—Subject to paragraph (3), the Secretary shall approve applications under subsection (a) that meet the requirements of paragraph (2) and such additional terms and conditions as the Secretary may require. The Secretary may waive the requirement of section 1902(a)(1) of the Social Security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-State demonstrations.

(2) **TERMS AND CONDITIONS OF DEMONSTRATION PROJECTS.**—The Secretary may not approve a demonstration project under this section unless the State provides assurances satisfactory to the Secretary that the following conditions are or will be met:

(A) **MAINTENANCE OF STATE EFFORT.**—Federal funds paid to a State pursuant to this section must be used to supplement, but not supplant, the level of State funds expended for workers with potentially severe disabilities under programs in effect for such individuals at the time the demonstration project is approved under this section.

(B) **INDEPENDENT EVALUATION.**—The State provides for an independent evaluation of the project.

(3) **LIMITATIONS ON FEDERAL FUNDING.**—

(A) **APPROPRIATION.**—

(i) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section—

(I) \$42,000,000 for each of fiscal years 2001 through 2004; and

(II) \$41,000,000 for each of fiscal years 2005 and 2006.

(ii) **BUDGET AUTHORITY.**—Clause (i) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under clause (i).

(B) **LIMITATION ON PAYMENTS.**—In no case may—

(i) the aggregate amount of payments made by the Secretary to States under this section exceed \$250,000,000;

(ii) the aggregate amount of payments made by the Secretary to States for administrative expenses relating to annual reports required under subsection (d) exceed \$2,000,000 of such \$250,000,000; or

(iii) payments be provided by the Secretary for a fiscal year after fiscal year 2009.

(C) **FUNDS ALLOCATED TO STATES.**—The Secretary shall allocate funds to States based on their applications and the availability of funds. Funds allocated to a State under a grant made under this section for a fiscal year shall remain available until expended.

(D) **FUNDS NOT ALLOCATED TO STATES.**—Funds not allocated to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allocation by the Secretary using the allocation formula established under this section.

(E) **PAYMENTS TO STATES.**—The Secretary shall pay to each State with a demonstration project approved under this section, from its allocation under subparagraph (C), an amount for each quarter equal to the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1395d(b)) of expenditures in the quarter for medical assistance provided to workers with a potentially severe disability.

(d) **ANNUAL REPORT.**—A State with a demonstration project approved under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include enrollment and financial statistics on—

(1) the total population of workers with potentially severe disabilities served by the demonstration project; and

(2) each population of such workers with a specific physical or mental impairment described in subsection (b)(1)(B) served by such project.

(e) **RECOMMENDATION.**—Not later than October 1, 2004, the Secretary shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the demonstration project established under this section should be continued after fiscal year 2006. Deadline.

(f) **STATE DEFINED.**—In this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**SEC. 205. ELECTION BY DISABLED BENEFICIARIES TO SUSPEND MEDIGAP INSURANCE WHEN COVERED UNDER A GROUP HEALTH PLAN.**

(a) **IN GENERAL.**—Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by inserting “or paragraph (6)” after “this paragraph”; and

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

“(6) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended

at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v)). If such suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, such policy shall be automatically reinstated (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.”

42 USC 1395ss  
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to requests made after the date of the enactment of this Act.

### TITLE III—DEMONSTRATION PROJECTS AND STUDIES

#### SEC. 301. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

##### “DEMONSTRATION PROJECT AUTHORITY

42 USC 434.

“SEC. 234. (a) AUTHORITY.—

“(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the ‘Commissioner’) shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of—

“(A) various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)), including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of such individuals;

“(B) altering other limitations and conditions applicable to such individuals (including lengthening the trial work period (as defined in section 222(c)), altering the 24-month waiting period for hospital insurance benefits under section 226, altering the manner in which the program under this title is administered, earlier referral of such individuals for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation); and

“(C) implementing sliding scale benefit offsets using variations in—

“(i) the amount of the offset as a proportion of earned income;

“(ii) the duration of the offset period; and

“(iii) the method of determining the amount of income earned by such individuals,

to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this title.

“(2) **AUTHORITY FOR EXPANSION OF SCOPE.**—The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this title with impairments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

“(b) **REQUIREMENTS.**—The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program under this title without committing such program to the adoption of any particular system either locally or nationally.

“(c) **AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.**—In the case of any experiment or demonstration project conducted under subsection (a), the Commissioner may waive compliance with the benefit requirements of this title and the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

“(d) **REPORTS.**—

“(1) **INTERIM REPORTS.**—On or before June 9 of each year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials that the Commissioner may consider appropriate. Deadline.

“(2) **TERMINATION AND FINAL REPORT.**—The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c)) shall terminate 5 years after the date of the enactment of this Act. Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.”

**(b) CONFORMING AMENDMENTS; TRANSFER OF PRIOR AUTHORITY.—****(1) CONFORMING AMENDMENTS.—**

**(A) REPEAL OF PRIOR AUTHORITY.—**Paragraphs (1) through (4) of subsection (a) and subsection (c) of section 505 of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) are repealed.

**(B) CONFORMING AMENDMENT REGARDING FUNDING.—**Section 201(k) of the Social Security Act (42 U.S.C. 401(k)) is amended by striking “section 505(a) of the Social Security Disability Amendments of 1980” and inserting “section 234”.

42 USC 1310  
note.

**(2) TRANSFER OF PRIOR AUTHORITY.—**With respect to any experiment or demonstration project being conducted under section 505(a) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) as of the date of the enactment of this Act, the authority to conduct such experiment or demonstration project (including the terms and conditions applicable to the experiment or demonstration project) shall be treated as if that authority (and such terms and conditions) had been established under section 234 of the Social Security Act, as added by subsection (a).

42 USC 434 note.

**SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

**(a) AUTHORITY.—**The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1148(k)(3) of the Social Security Act) under which benefits payable under section 223 of such Act, or under section 202 of such Act based on the beneficiary's disability, are reduced by \$1 for each \$2 of the beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

**(b) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—**

**(1) IN GENERAL.—**The demonstration projects developed under subsection (a) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

**(A)** the effects, if any, of induced entry into the project and reduced exit from the project;

**(B)** the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act; and

**(C)** the savings that accrue to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Work Incentives Advisory Panel pursuant to section 101(f)(2)(B)(ii) of this Act.

(2) **ADDITIONAL MATTERS.**—The Commissioner shall also determine with respect to each project—

(A) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project;

(B) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project; and

(C) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

(c) **WAIVERS.**—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act (42 U.S.C. 401 et seq.), and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act (42 U.S.C. 1395 et seq.), insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

Reports.

(d) **INTERIM REPORTS.**—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Commissioner of Social Security shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials that the Commissioner of Social Security may consider appropriate.

Deadline.

(e) **FINAL REPORT.**—The Commissioner of Social Security shall submit to the Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.

Deadline.

(f) **EXPENDITURES.**—Expenditures made for demonstration projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

### SEC. 303. STUDIES AND REPORTS.

(a) **STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.**—

42 USC 1201  
note.

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other Federal laws. In such study, the Comptroller General shall specifically address the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities.

Deadline.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

42 USC 401 note.

(b) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING COORDINATION OF THE DI AND SSI PROGRAMS AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAVING CONCURRENT ENTITLEMENT.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act (42 U.S.C. 401 et seq.) and the supplemental security income program under title XVI of such Act (42 U.S.C. 1381 et seq.), as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

42 USC 434 note.

(c) STUDY BY GENERAL ACCOUNTING OFFICE OF THE IMPACT OF THE SUBSTANTIAL GAINFUL ACTIVITY LIMIT ON RETURN TO WORK.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study of the substantial gainful activity level applicable as of that date to recipients of benefits under section 223 of the Social Security Act (42 U.S.C. 423) and under section 202 of such Act (42 U.S.C. 402) on the basis of a recipient having a disability, and the effect of such level as a disincentive for those recipients to return to work. In the study, the Comptroller General also shall address the merits of increasing the substantial gainful activity level

applicable to such recipients of benefits and the rationale for not yearly indexing that level to inflation.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate. Deadline.

(d) REPORT ON DISREGARDS UNDER THE DI AND SSI PROGRAMS.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that— Deadline.

(1) identifies all income, assets, and resource disregards (imposed under statutory or regulatory authority) that are applicable to individuals receiving benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.);

(2) with respect to each such disregard—

(A) specifies the most recent statutory or regulatory modification of the disregard; and

(B) recommends whether further statutory or regulatory modification of the disregard would be appropriate; and

(3) with respect to the disregard described in section 1612(b)(7) of such Act (42 U.S.C. 1382a(b)(7)) (relating to grants, scholarships, or fellowships received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution)—

(A) identifies the number of individuals receiving benefits under title XVI of such Act (42 U.S.C. 1381 et seq.) who have attained age 22 and have not had any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution excluded from their income in accordance with that section;

(B) recommends whether the age at which such grants, scholarships, or fellowships are excluded from income for purposes of determining eligibility under title XVI of such Act (42 U.S.C. 1381 et seq.) should be increased to age 25; and

(C) recommends whether such disregard should be expanded to include any such grant, scholarship, or fellowship received for use in paying the cost of room and board at any such institution.

(e) STUDY BY THE GENERAL ACCOUNTING OFFICE OF SOCIAL SECURITY ADMINISTRATION'S DISABILITY INSURANCE PROGRAM DEMONSTRATION AUTHORITY.— 42 USC 434 note.

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess the results of the Social Security Administration's efforts to conduct disability demonstrations authorized under prior law as well as under



section 234 of the Social Security Act (as added by section 301 of this Act).

Deadline.

(2) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this section, together with a recommendation as to whether the demonstration authority authorized under section 234 of the Social Security Act (as added by section 301 of this Act) should be made permanent.

## TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

### SEC. 401. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.

(a) CLARIFICATION RELATING TO THE EFFECTIVE DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended—

(1) in subparagraph (A), by striking “by the Commissioner of Social Security” and “by the Commissioner”; and

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

“(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

“(i) there is pending a request for either administrative or judicial review with respect to such claim; or

“(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) shall not apply to such redetermination.”

(b) CORRECTION TO EFFECTIVE DATE OF PROVISIONS CONCERNING REPRESENTATIVE PAYEES AND TREATMENT REFERRALS OF SOCIAL SECURITY BENEFICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5)(B) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended to read as follows:

“(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—

“(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act; or

“(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).”.

(c) **EFFECTIVE DATES.**—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 852 et seq.). 42 USC 405 note.

**SEC. 402. TREATMENT OF PRISONERS.**

(a) **IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF TITLE II BENEFITS TO PRISONERS.**—

(1) **IN GENERAL.**—Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended—

(A) by inserting “(A)” after “(3)”; and

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

“(B)(i) The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—

“(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, Social Security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1) and other provisions of this title; and

“(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual’s confinement in such institution begins, or \$200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.

“(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).

“(iii) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II).

“(iv) The Commissioner shall maintain, and shall provide on a reimbursable basis, information obtained pursuant to agreements entered into under this paragraph to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility and other administrative purposes under such program.”.

(2) CONFORMING AMENDMENTS TO THE PRIVACY ACT.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

- (A) in clause (vi), by striking “or” at the end;
- (B) in clause (vii), by adding “or” at the end; and
- (C) by adding at the end the following new clause:  
“(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));”.

(3) CONFORMING AMENDMENTS TO TITLE XVI.—

(A) Section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking “; and” and inserting “and the other provisions of this title; and”.

(B) Section 1611(e)(1)(I)(ii)(II) of such Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by striking “is authorized to provide, on a reimbursable basis,” and inserting “shall maintain, and shall provide on a reimbursable basis,”.

42 USC 402 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(b) ELIMINATION OF TITLE II REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking “during which” and inserting “ending with or during or beginning with or during a period of more than 30 days throughout all of which”;

(B) in clause (i), by striking “an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)” and inserting “a criminal offense”; and

(C) in clause (ii)(I), by striking “an offense punishable by imprisonment for more than 1 year” and inserting “a criminal offense”.

42 USC 402 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(c) CONFORMING TITLE XVI AMENDMENTS.—

(1) FIFTY PERCENT REDUCTION IN TITLE XVI PAYMENT IN CASE INVOLVING COMPARABLE TITLE II PAYMENT.—Section 1611(e)(1)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is amended—

(A) in clause (i)(II), by inserting “(subject to reduction under clause (ii))” after “\$400” and after “\$200”;

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(C) by inserting after clause (i) the following new clause:

“(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B).”.

(2) EXPANSION OF CATEGORIES OF INSTITUTIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in the matter preceding subclause (I) by striking “institution” and all that follows through “section 202(x)(1)(A),” and inserting “institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii).”.

(3) ELIMINATION OF OVERLY BROAD EXEMPTION.—Section 1611(e)(1)(I)(iii) of such Act (42 U.S.C. 1382(e)(1)(I)(iii)) (as redesignated by paragraph (1)(B)) is amended further—

(A) by striking “(I) The provisions” and all that follows through “(II)”; and

(B) by striking “eligibility purposes” and inserting “eligibility and other administrative purposes under such program”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act in section 1611(e)(1)(I)(i) of the Social Security Act, as amended by paragraph (2) of this subsection, shall be deemed a reference to such section 202(x)(1)(A)(ii) of such Act as amended by subsection (b)(1)(C) of this section.

42 USC 1382  
note.

(d) CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON TERM.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii)(IV), by striking the period and inserting “, or”; and

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

“(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.”.

(2) CONFORMING AMENDMENT.—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking “clause (ii)” and inserting “clauses (ii) and (iii)”.

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

42 USC 402 note.

26 USC 1402  
note.

**SEC. 403. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.**

(a) **IN GENERAL.**—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed by the Commissioner of Internal Revenue), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1999. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.)), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1999, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraphs (4) and (5) of section 1402(c)) except for the exemption under section 1402(e)(1) of such Code.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and with respect to monthly insurance benefits payable under title II on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

**SEC. 404. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND XVI.**

(a) **IN GENERAL.**—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking "title XVI" and inserting "title II or XVI".

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1464).

42 USC 1310  
note.

**SEC. 405. AUTHORIZATION FOR STATE TO PERMIT ANNUAL WAGE REPORTS.**

(a) **IN GENERAL.**—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b-7(a)(3)) is amended by inserting before the semicolon the following: “, and except that in the case of wage reports with respect to domestic service employment, a State may permit employers (as so defined) that make returns with respect to such employment on a calendar year basis pursuant to section 3510 of the Internal Revenue Code of 1986 to make such reports on an annual basis”.

(b) **TECHNICAL AMENDMENTS.**—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b-7(a)(3)) is amended—

(1) by striking “(as defined in section 453A(a)(2)(B)(iii))”;

and

(2) by inserting “(as defined in section 453A(a)(2)(B))” after “employers”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to wage reports required to be submitted on and after the date of the enactment of this Act.

42 USC 1320b-7  
note.

**SEC. 406. ASSESSMENT ON ATTORNEYS WHO RECEIVE THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.**

(a) **ASSESSMENT ON ATTORNEYS.**—

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

“(d) **ASSESSMENT ON ATTORNEYS.**—

“(1) **IN GENERAL.**—Whenever a fee for services is required to be certified for payment to an attorney from a claimant’s past-due benefits pursuant to subsection (a)(4) or (b)(1), the Commissioner shall impose on the attorney an assessment calculated in accordance with paragraph (2).

“(2) **AMOUNT.**—

“(A) The amount of an assessment under paragraph (1) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be so certified by subsection (a)(4) or (b)(1) before the application of this subsection, by the percentage specified in subparagraph (B).

“(B) The percentage specified in this subparagraph is—

“(i) for calendar years before 2001, 6.3 percent,  
and

“(ii) for calendar years after 2000, such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and certifying fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(3) **COLLECTION.**—The Commissioner may collect the assessment imposed on an attorney under paragraph (1) by offset from the amount of the fee otherwise required by subsection (a)(4) or (b)(1) to be certified for payment to the attorney from a claimant’s past-due benefits.

“(4) **PROHIBITION ON CLAIMANT REIMBURSEMENT.**—An attorney subject to an assessment under paragraph (1) may not, directly or indirectly, request or otherwise obtain

reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

“(5) DISPOSITION OF ASSESSMENTS.—Assessments on attorneys collected under this subsection shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate.

“(6) AUTHORIZATION OF APPROPRIATIONS.—The assessments authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 206(a)(4)(A) of such Act (42 U.S.C. 406(a)(4)(A)) is amended by inserting “and subsection (d)” after “subparagraph (B)”.

(B) Section 206(b)(1)(A) of such Act (42 U.S.C. 406(b)(1)(A)) is amended by inserting “, but subject to subsection (d) of this section” after “section 205(i)”.

(b) ELIMINATION OF 15-DAY WAITING PERIOD FOR PAYMENT OF FEES.—Section 206(a)(4) of such Act (42 U.S.C. 406(a)(4)), as amended by subsection (a)(2)(A) of this section, is amended—

- (1) by striking “(4)(A)” and inserting “(4)”;
- (2) by striking “subparagraph (B) and”; and
- (3) by striking subparagraph (B).

(c) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that—

(A) examines the costs incurred by the Social Security Administration in administering the provisions of subsection (a)(4) and (b)(1) of section 206 of the Social Security Act (42 U.S.C. 406) and itemizes the components of such costs, including the costs of determining fees to attorneys from the past-due benefits of claimants before the Commissioner of Social Security and of certifying such fees;

(B) identifies efficiencies that the Social Security Administration could implement to reduce such costs;

(C) examines the feasibility and advisability of linking the payment of, or the amount of, the assessment under section 206(d) of the Social Security Act (42 U.S.C. 406(d)) to the timeliness of the payment of the fee to the attorney as certified by the Commissioner of Social Security pursuant to subsection (a)(4) or (b)(1) of section 206 of such Act (42 U.S.C. 406);

(D) determines whether the provisions of subsection (a)(4) and (b)(1) of section 206 of such Act (42 U.S.C. 406) should be applied to claimants under title XVI of such Act (42 U.S.C. 1381 et seq.);

(E) determines the feasibility and advisability of stating fees under section 206(d) of such Act (42 U.S.C. 406(d)) in terms of a fixed dollar amount as opposed to a percentage;

(F) determines whether the dollar limit specified in section 206(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 406(a)(2)(A)(ii)(II)) should be raised; and

(G) determines whether the assessment on attorneys required under section 206(d) of such Act (42 U.S.C. 406(d))

(as added by subsection (a)(1) of this section) impairs access to legal representation for claimants.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States 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 study conducted under paragraph (1), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study. Deadline.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply in the case of any attorney with respect to whom a fee for services is required to be certified for payment from a claimant's past-due benefits pursuant to subsection (a)(4) or (b)(1) of section 206 of the Social Security Act after the later of— 42 USC 406 note.

(1) December 31, 1999, or

(2) the last day of the first month beginning after the month in which this Act is enacted.

**SEC. 407. EXTENSION OF AUTHORITY OF STATE MEDICAID FRAUD CONTROL UNITS.**

(a) **EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL HEALTH CARE PROGRAMS.**—Section 1903(q)(3) of the Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting “(A)” after “in connection with”; and

(2) by striking “title.” and inserting “title; and (B) upon the approval of the Inspector General of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)), if the suspected fraud or violation of law in such case or investigation is primarily related to the State plan under this title.”.

(b) **RECOUPMENT OF FUNDS.**—Section 1903(q)(5) of such Act (42 U.S.C. 1396b(q)(5)) is amended—

(1) by inserting “or under any Federal health care program (as so defined)” after “plan”; and

(2) by adding at the end the following: “All funds collected in accordance with this paragraph shall be credited exclusively to, and available for expenditure under, the Federal health care program (including the State plan under this title) that was subject to the activity that was the basis for the collection.”.

(c) **EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE RESIDENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.**—Section 1903(q)(4) of such Act (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

“(4)(A) The entity has—

“(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

“(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

“(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.



“(B) For purposes of this paragraph, the term ‘board and care facility’ means a residential setting which receives payment (regardless of whether such payment is made under the State plan under this title) from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

“(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

“(ii) A substantial amount of personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.”

(d) **EFFECTIVE DATE.**—The amendments made by this section take effect on the date of the enactment of this Act.

42 USC 1396b  
note.

#### **SEC. 408. CLIMATE DATABASE MODERNIZATION.**

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration shall initiate a new competitive contract procurement for its multi-year program for key entry of valuable climate records, archive services, and database development in accordance with existing Federal procurement laws and regulations.

#### **SEC. 409. SPECIAL ALLOWANCE ADJUSTMENT FOR STUDENT LOANS.**

(a) **AMENDMENT.**—Section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) is amended—

(1) in subparagraph (A), by striking “(G), and (H)” and inserting “(G), (H), and (I)”;

(2) in subparagraph (B)(iv), by striking “(G), or (H)” and inserting “(G), (H), or (I)”;

(3) in subparagraph (C)(ii), by striking “(G) and (H)” and inserting “(G), (H), and (I)”;

(4) in the heading of subparagraph (H), by striking “JULY 1, 2003” and inserting “JANUARY 1, 2000”;

(5) in subparagraph (H), by striking “July 1, 2003,” each place it appears and inserting “January 1, 2000,”; and

(6) by inserting after subparagraph (H) the following new subparagraph:

“(I) **LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2003.**—

“(i) **IN GENERAL.**—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, shall be computed—

“(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period;

“(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

“(III) by adding 2.34 percent to the resultant percent; and

“(IV) by dividing the resultant percent by 4.

“(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting ‘1.74 percent’ for ‘2.34 percent’.

“(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.64 percent’ for ‘2.34 percent’, subject to clause (v) of this subparagraph.

“(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and before July 1, 2003, and for which the applicable interest rate is determined under section 427A(k)(4), clause (i)(III) of this subparagraph shall be applied by substituting ‘2.64 percent’ for ‘2.34 percent’, subject to clause (vi) of this subparagraph.

“(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and first disbursed on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(3), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

“(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

“(II) 3.1 percent,

exceeds 9.0 percent.

“(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 428C and for which the application is received on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(4), a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

“(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H-15 (or its successor) for such 3-month period; plus

“(II) 2.64 percent,

exceeds the rate determined under section 427A(k)(4).”.

Applicability.  
20 USC 1087-1  
note.

(b) EFFECTIVE DATE.—Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

**SEC. 410. SCHEDULE FOR PAYMENTS UNDER SSI STATE SUPPLEMENTATION AGREEMENTS.**

(a) SCHEDULE FOR SSI SUPPLEMENTATION PAYMENTS.—

(1) IN GENERAL.—Section 1616(d) of the Social Security Act (42 U.S.C. 1382e(d)) is amended—

(A) in paragraph (1), by striking “at such times and in such installments as may be agreed upon between the Commissioner of Social Security and such State” and inserting “in accordance with paragraph (5)”; and

(B) by adding at the end the following new paragraph:  
“(5)(A)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this subsection with respect to monthly benefits paid to individuals under this title no later than—

“(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

“(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

“(ii) The Commissioner may charge States a penalty in an amount equal to 5 percent of the payment and the fees due if the remittance is received after the date required by clause (i).

“(B) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this subsection that are paid by a State before the date required by subparagraph (A)(i).

“(C) Notwithstanding subparagraph (A)(i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of benefits under this title, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State’s ability to make payment when required by subparagraph (A)(i) are determined by the Commissioner to exist.”.

(2) AMENDMENT TO SECTION 212.—Section 212 of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) in subsection (b)(3)(A), by striking “at such times and in such installments as may be agreed upon between the Secretary and the State” and inserting “in accordance with subparagraph (E)”; and

(B) by adding at the end of subsection (b)(3) the following new subparagraph:

Deadlines.

“(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act no later than—

“(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

“(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

“(ii) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

“(iii) Notwithstanding clause (i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of supplemental security income benefits under title XVI of the Social Security Act, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State’s ability to make payment when required by clause (i) are determined by the Commissioner to exist.”; and

(C) by striking “Secretary of Health, Education, and Welfare” and “Secretary” each place such term appear and inserting “Commissioner of Social Security”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to payments and fees arising under an agreement between a State and the Commissioner of Social Security under section 1616 of the Social Security Act (42 U.S.C. 1382e) or under section 212 of Public Law 93-66 (42 U.S.C. 1382 note) with respect to monthly benefits paid to individuals under title XVI of the Social Security Act for months after September 2009 (October 2009 in the case of a State with a fiscal year that coincides with the Federal fiscal year), without regard to whether the agreement has been modified to reflect such amendments or the Commissioner has promulgated regulations implementing such amendments.

Applicability.  
42 USC 1382e  
note.

#### SEC. 411. BONUS COMMODITIES.

Section 6(e)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

(1) by striking “in the form of commodity assistance” and inserting “in the form of—

“(A) commodity assistance”;

(2) by striking the period at the end and inserting “; or”;

and

(3) by adding at the end the following:

“(B) during the period beginning October 1, 2000, and ending September 30, 2009, commodities provided by the Secretary under any provision of law.”.

#### SEC. 412. SIMPLIFICATION OF DEFINITION OF FOSTER CHILD UNDER EIC.

(a) **IN GENERAL.**—Section 32(c)(3)(B)(iii) of the Internal Revenue Code of 1986 (defining eligible foster child) is amended by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively, and by inserting before subclause (II), as so redesignated, the following:

26 USC 32.

“(I) is a brother, sister, stepbrother, or step-sister of the taxpayer (or a descendant of any such relative) or is placed with the taxpayer by an authorized placement agency.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

Applicability.  
26 USC 32 note.

**SEC. 413. DELAY OF EFFECTIVE DATE OF ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK FINAL RULE.**

(a) **IN GENERAL.**—The final rule entitled “Organ Procurement and Transplantation Network”, promulgated by the Secretary of Health and Human Services on April 2, 1998 (63 Fed. Reg. 16295 et seq.) (relating to part 121 of title 42, Code of Federal Regulations), together with the amendments to such rules promulgated on October 20, 1999 (64 Fed. Reg. 56649 et seq.) shall not become effective before the expiration of the 90-day period beginning on the date of the enactment of this Act.

(b) **NOTICE AND REVIEW.**—For purposes of subsection (a):

Deadline. (1) Not later than 3 days after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall publish in the Federal Register a notice providing that the period within which comments on the final rule may be submitted to the Secretary is 60 days after the date of such publication of the notice.

Deadline. (2) Not later than 21 days after the expiration of such 60-day period, the Secretary shall complete the review of the comments submitted pursuant to paragraph (1) and shall amend the final rule with any revisions appropriate according to the review by the Secretary of such comments. The final rule may be in the form of amendments to the rule referred to in subsection (a) that was promulgated on April 2, 1998, and in the form of amendments to the rule referred to in such subsection that was promulgated on October 20, 1999.

Tax Relief  
Extension Act of  
1999.

**TITLE V—TAX RELIEF EXTENSION ACT  
OF 1999**

26 USC 1 note.

**SEC. 500. SHORT TITLE OF TITLE.**

This title may be cited as the “Tax Relief Extension Act of 1999”.

**Subtitle A—Extensions****SEC. 501. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.**

26 USC 26. (a) **IN GENERAL.**—Subsection (a) of section 26 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended to read as follows:

“(a) **LIMITATION BASED ON AMOUNT OF TAX.**—

“(1) **IN GENERAL.**—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

“(A) the taxpayer’s regular tax liability for the taxable year, over

“(B) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit).

For purposes of subparagraph (B), the taxpayer’s tentative minimum tax for any taxable year beginning during 1999 shall be treated as being zero.”.

“(2) SPECIAL RULE FOR 2000 AND 2001.—For purposes of any taxable year beginning during 2000 or 2001, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

“(A) the taxpayer’s regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

“(B) the tax imposed by section 55(a) for the taxable year.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(d)(2) of such Code is amended by striking “1998” and inserting “2001”. 26 USC 24.

(2) Section 904(h) of such Code is amended by adding at the end the following: “This subsection shall not apply to taxable years beginning during 2000 or 2001.”. 26 USC 904.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998. Applicability. 26 USC 24 note.

**SEC. 502. RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 41(h) of the Internal Revenue Code of 1986 (relating to termination) is amended— 26 USC 41.

(A) by striking “June 30, 1999” and inserting “June 30, 2004”; and

(B) by striking the material following subparagraph (B).

(2) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking “June 30, 1999” and inserting “June 30, 2004”. 26 USC 45C.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999. Applicability. 26 USC 41 note.

(b) INCREASE IN PERCENTAGES UNDER ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of such Code is amended—

(A) by striking “1.65 percent” and inserting “2.65 percent”;

(B) by striking “2.2 percent” and inserting “3.2 percent”; and

(C) by striking “2.75 percent” and inserting “3.75 percent”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after June 30, 1999. Applicability. 26 USC 41 note.

(c) EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.—

(1) IN GENERAL.—Subsections (c)(6) and (d)(4)(F) of section 41 of such Code (relating to foreign research) are each amended by inserting “, the Commonwealth of Puerto Rico, or any possession of the United States” after “United States”.

(2) DENIAL OF DOUBLE BENEFIT.—Section 280C(c)(1) of such Code is amended by inserting “or credit” after “deduction” each place it appears. 26 USC 280C.

Applicability.  
26 USC 41 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

26 USC 41 note.

(d) **SPECIAL RULE.**—

(1) **IN GENERAL.**—For purposes of the Internal Revenue Code of 1986, the credit determined under section 41 of such Code which is otherwise allowable under such Code—

(A) shall not be taken into account prior to October 1, 2000, to the extent such credit is attributable to the first suspension period; and

(B) shall not be taken into account prior to October 1, 2001, to the extent such credit is attributable to the second suspension period.

On or after the earliest date that an amount of credit may be taken into account, such amount may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code.

(2) **SUSPENSION PERIODS.**—For purposes of this subsection—

(A) the first suspension period is the period beginning on July 1, 1999, and ending on September 30, 2000; and

(B) the second suspension period is the period beginning on October 1, 2000, and ending on September 30, 2001.

(3) **EXPEDITED REFUNDS.**—

(A) **IN GENERAL.**—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) **DEADLINE FOR APPLICATIONS.**—Subparagraph (A) shall apply only to an application filed before the date which is 1 year after the close of the suspension period to which the application relates.

Deadline.

(C) **ALLOWANCE OF ADJUSTMENTS.**—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

(i) review the application;

(ii) determine the amount of the overpayment; and

(iii) apply, credit, or refund such overpayment, in a manner similar to the manner provided in section 6411(b) of such Code.

(D) **CONSOLIDATED RETURNS.**—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) **CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.**—

(A) **IN GENERAL.**—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under section 41 of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such section 41 for such taxable year as the number of months in the suspension period which are during such

taxable year bears to the number of months in such taxable year.

(B) **WAIVER OF ESTIMATED TAX PENALTIES.**—No addition to tax shall be made under section 6654 or 6655 of such Code for any period before July 1, 1999, with respect to any underpayment of tax imposed by such Code to the extent such underpayment was created or increased by reason of subparagraph (A).

(5) **SECRETARY.**—For purposes of this subsection, the term “Secretary” means the Secretary of the Treasury (or such Secretary’s delegate).

**SEC. 503. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.**

(a) **IN GENERAL.**—Sections 953(e)(10) and 954(h)(9) of the Internal Revenue Code of 1986 (relating to application) are each amended— 26 USC 953, 954.

(1) by striking “the first taxable year” and inserting “taxable years”;

(2) by striking “January 1, 2000” and inserting “January 1, 2002”; and

(3) by striking “within which such” and inserting “within which any such”.

(b) **TECHNICAL AMENDMENT.**—Paragraph (10) of section 953(e) of such Code is amended by adding at the end the following new sentence: “If this subsection does not apply to a taxable year of a foreign corporation beginning after December 31, 2001 (and taxable years of United States shareholders ending with or within such taxable year), then, notwithstanding the preceding sentence, subsection (a) shall be applied to such taxable years in the same manner as it would if the taxable year of the foreign corporation began in 1998.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1999. Applicability. 26 USC 953 note.

**SEC. 504. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION.**

(a) **IN GENERAL.**—Subparagraph (H) of section 613A(c)(6) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable limit with respect to marginal production) is amended by striking “January 1, 2000” and inserting “January 1, 2002”. 26 USC 613A.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 1999. 26 USC 613A note.

**SEC. 505. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) **TEMPORARY EXTENSION.**—Sections 51(c)(4)(B) and 51A(f) of the Internal Revenue Code of 1986 (relating to termination) are each amended by striking “June 30, 1999” and inserting “December 31, 2001”. 26 USC 51, 51A.

(b) **CLARIFICATION OF FIRST YEAR OF EMPLOYMENT.**—Paragraph (2) of section 51(i) of such Code is amended by striking “during which he was not a member of a targeted group”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1999. Applicability. 26 USC 51 note.



**SEC. 506. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.**

26 USC 127. (a) **IN GENERAL.**—Subsection (d) of section 127 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking “May 31, 2000” and inserting “December 31, 2001”.

Applicability.  
26 USC 127 note. (b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to courses beginning after May 31, 2000.

**SEC. 507. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.**

26 USC 45. (a) **EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.**—Paragraph (3) of section 45(c) of the Internal Revenue Code of 1986 is amended to read as follows:

**“(3) QUALIFIED FACILITY.—**

**“(A) WIND FACILITY.**—In the case of a facility using wind to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2002.

**“(B) CLOSED-LOOP BIOMASS FACILITY.**—In the case of a facility using closed-loop biomass to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002.

**“(C) POULTRY WASTE FACILITY.**—In the case of a facility using poultry waste to produce electricity, the term ‘qualified facility’ means any facility of the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2002.”

**(b) EXPANSION OF QUALIFIED ENERGY RESOURCES.—**

**(1) IN GENERAL.**—Section 45(c)(1) of such Code (defining qualified energy resources) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

**“(C) poultry waste.”**

**(2) DEFINITION.**—Section 45(c) of such Code is amended by adding at the end the following new paragraph:

**“(4) POULTRY WASTE.**—The term ‘poultry waste’ means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.”

**(c) SPECIAL RULES.**—Section 45(d) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraphs:

**“(6) CREDIT ELIGIBILITY IN THE CASE OF GOVERNMENT-OWNED FACILITIES USING POULTRY WASTE.**—In the case of a facility using poultry waste to produce electricity and owned by a governmental unit, the person eligible for the credit under subsection (a) is the lessee or the operator of such facility.

**“(7) CREDIT NOT TO APPLY TO ELECTRICITY SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.—**

**“(A) IN GENERAL.**—The credit determined under subsection (a) shall not apply to electricity—

**“(i) produced at a qualified facility described in paragraph (3)(A) which is placed in service by the taxpayer after June 30, 1999, and**

“(ii) sold to a utility pursuant to a contract originally entered into before January 1, 1987 (whether or not amended or restated after that date).

“(B) EXCEPTION.—Subparagraph (A) shall not apply if—

“(i) the prices for energy and capacity from such facility are established pursuant to an amendment to the contract referred to in subparagraph (A)(ii),

“(ii) such amendment provides that the prices set forth in the contract which exceed avoided cost prices determined at the time of delivery shall apply only to annual quantities of electricity (prorated for partial years) which do not exceed the greater of—

“(I) the average annual quantity of electricity sold to the utility under the contract during calendar years 1994, 1995, 1996, 1997, and 1998, or

“(II) the estimate of the annual electricity production set forth in the contract, or, if there is no such estimate, the greatest annual quantity of electricity sold to the utility under the contract in any of the calendar years 1996, 1997, or 1998, and

“(iii) such amendment provides that energy and capacity in excess of the limitation in clause (ii) may be—

“(I) sold to the utility only at prices that do not exceed avoided cost prices determined at the time of delivery, or

“(II) sold to a third party subject to a mutually agreed upon advance notice to the utility.

For purposes of this subparagraph, avoided cost prices shall be determined as provided for in 18 CFR 292.304(d)(1) or any successor regulation.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 26 USC 45 note.

**SEC. 508. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF PREFERENCES.**

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking “June 30, 1999” and inserting “September 30, 2001”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section applies to articles entered on or after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), any entry—

(i) of an article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if such entry had been made on July 1, 1999, and such title had been in effect on July 1, 1999; and

(ii) that was made—

(I) after June 30, 1999; and

19 USC 2465  
note.

(II) before the date of the enactment of this

Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—As used in this paragraph, the term “entry” includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

**SEC. 509. EXTENSION OF CREDIT FOR HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.**

26 USC 1397E.

(a) IN GENERAL.—Section 1397E(e)(1) of the Internal Revenue Code of 1986 (relating to national limitation) is amended by striking “and 1999” and inserting “, 1999, 2000, and 2001”.

(b) LIMITATION ON CARRYOVER PERIODS.—Paragraph (4) of section 1397E(e) of such Code is amended by adding at the end the following flush sentences:

“Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.”

**SEC. 510. EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.**

26 USC 1400C.

Section 1400C(i) of the Internal Revenue Code of 1986 is amended by striking “2001” and inserting “2002”.

**SEC. 511. EXTENSION OF EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

26 USC 198.

Section 198(h) of the Internal Revenue Code of 1986 is amended by striking “2000” and inserting “2001”.

**SEC. 512. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.**

26 USC 7652.

(a) IN GENERAL.—Section 7652(f)(1) of the Internal Revenue Code of 1986 (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

“(1) \$10.50 (\$13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2002), or”.

Applicability.  
26 USC 7652  
note.

(b) SPECIAL COVER OVER TRANSFER RULES.—Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before October 1, 2000, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a):

(1) INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.—The Secretary of the Treasury shall, within 15 days after the date of the enactment of this Act, transfer an amount equal to the lesser of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the date of the enactment of this Act; or

(B) \$20,000,000.

(2) TRANSFER OF INCREMENTAL INCREASE FOR FISCAL YEAR 2001.—The Secretary of the Treasury shall on October 1, 2000, transfer an amount equal to the excess of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before October 1, 2000, over

(B) the amount of the transfer described in paragraph

(1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1999.

26 USC 7652  
note.

## Subtitle B—Other Time-Sensitive Provisions

### SEC. 521. ADVANCE PRICING AGREEMENTS TREATED AS CONFIDENTIAL TAXPAYER INFORMATION.

(a) IN GENERAL.—

(1) TREATMENT AS RETURN INFORMATION.—Paragraph (2) of section 6103(b) of the Internal Revenue Code of 1986 (defining return information) is amended by striking “and” at the end of subparagraph (A), by inserting “and” at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

26 USC 6103.

“(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”

(2) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Paragraph (1) of section 6110(b) of such Code (defining written determination) is amended by adding at the end the following new sentence: “Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”

26 USC 6110.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

26 USC 6103  
note.

(b) ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS.—

(1) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

Deadline.

(2) CONTENTS OF REPORT.—The report shall include the following for the calendar year to which such report relates:

(A) Information about the structure, composition, and operation of the advance pricing agreement program office.

(B) A copy of each model advance pricing agreement.

(C) The number of—

(i) applications filed during such calendar year for advance pricing agreements;

(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

(iii) renewals of advance pricing agreements issued;

(iv) pending requests for advance pricing agreements;

(v) pending renewals of advance pricing agreements;

(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

(viii) advance pricing agreements finalized or renewed by industry.

(D) General descriptions of—

(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

(ii) the covered transactions and the business functions performed and risks assumed by such organizations, trades, or businesses;

(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

(v) critical assumptions made and sources of comparables used;

(vi) comparable selection criteria and the rationale used in determining such criteria;

(vii) the nature of adjustments to comparables or tested parties;

(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparables;

(ix) adjustment mechanisms provided to rectify results that fall outside of the agreed upon advance pricing agreement range;

(x) the various term lengths for advance pricing agreements, including rollback years, and the number of advance pricing agreements with each such term length;

(xi) the nature of documentation required; and

(xii) approaches for sharing of currency or other risks.

(E) Statistics regarding the amount of time taken to complete new and renewal advance pricing agreements.

(F) A detailed description of the Secretary of the Treasury's efforts to ensure compliance with existing advance pricing agreements.

(3) CONFIDENTIALITY.—The reports required by this subsection shall be treated as authorized by the Internal Revenue

Code of 1986 for purposes of section 6103 of such Code, but the reports shall not include information—

(A) which would not be permitted to be disclosed under section 6110(c) of such Code if such report were a written determination as defined in section 6110 of such Code; or

(B) which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(4) **FIRST REPORT.**—The report for calendar year 1999 shall include prior calendar years after 1990.

(c) **REGULATIONS.**—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 6103(b)(2)(C), and the last sentence of section 6110(b)(1), of the Internal Revenue Code of 1986, as added by this section.

26 USC 6103.

**SEC. 522. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES.**

26 USC 7508A note.

(a) **IN GENERAL.**—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary's delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor; and

(2) the amount of any credit or refund.

(b) **APPLICABILITY OF CERTAIN RULES.**—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.

**SEC. 523. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.**

(a) **INCLUSION OF VACCINES.**—

(1) **IN GENERAL.**—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

26 USC 4132.

“(L) Any conjugate vaccine against streptococcus pneumoniae.”

(2) **EFFECTIVE DATE.**—

26 USC 4132 note.

(A) **SALES.**—The amendment made by this subsection shall apply to vaccine sales after the date of the enactment of this Act, but shall not take effect if subsection (b) does not take effect.

(B) **DELIVERIES.**—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(b) **VACCINE TAX AND TRUST FUND AMENDMENTS.**—

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

26 USC 4132 and note, 9510 and note.  
26 USC 9510.

(2) Subparagraph (A) of section 9510(c)(1) of such Code is amended by striking “August 5, 1997” and inserting “December 31, 1999”.

26 USC 4132  
note.

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 to which they relate.

Deadline.

(c) REPORT.—Not later than January 31, 2000, the Comptroller General of the United States shall prepare and 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 operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

**SEC. 524. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.**

26 USC 4041  
note.

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking “July 1, 2000” and inserting “January 1, 2002”.

7 USC 7212 note.

**SEC. 525. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.**

Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 et seq.), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

**Subtitle C—Revenue Offsets**

**PART I—GENERAL PROVISIONS**

**SEC. 531. MODIFICATION OF ESTIMATED TAX SAFE HARBOR.**

26 USC 6654.

(a) IN GENERAL.—The table contained in clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 (relating to limitation on use of preceding year’s tax) is amended by striking the items relating to 1999 and 2000 and inserting the following new items:

“1999 .....	108.6
2000 .....	110”.

Applicability.  
26 USC 6654.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

**SEC. 532. CLARIFICATION OF TAX TREATMENT OF INCOME AND LOSS ON DERIVATIVES.**

26 USC 1221.

(a) IN GENERAL.—Section 1221 of the Internal Revenue Code of 1986 (defining capital assets) is amended—

(1) by striking “For purposes” and inserting the following:

“(a) IN GENERAL.—For purposes”;

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

“(6) any commodities derivative financial instrument held by a commodities derivatives dealer, unless—

“(A) it is established to the satisfaction of the Secretary that such instrument has no connection to the activities of such dealer as a dealer, and

“(B) such instrument is clearly identified in such dealer’s records as being described in subparagraph (A) before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe);

“(7) any hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe); or

“(8) supplies of a type regularly used or consumed by the taxpayer in the ordinary course of a trade or business of the taxpayer.

“(b) DEFINITIONS AND SPECIAL RULES.—

“(1) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENTS.—  
For purposes of subsection (a)(6)—

“(A) COMMODITIES DERIVATIVES DEALER.—The term ‘commodities derivatives dealer’ means a person which regularly offers to enter into, assume, offset, assign, or terminate positions in commodities derivative financial instruments with customers in the ordinary course of a trade or business.

“(B) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENT.—

“(i) IN GENERAL.—The term ‘commodities derivative financial instrument’ means any contract or financial instrument with respect to commodities (other than a share of stock in a corporation, a beneficial interest in a partnership or trust, a note, bond, debenture, or other evidence of indebtedness, or a section 1256 contract (as defined in section 1256(b)), the value or settlement price of which is calculated by or determined by reference to a specified index.

“(ii) SPECIFIED INDEX.—The term ‘specified index’ means any one or more or any combination of—

“(I) a fixed rate, price, or amount, or

“(II) a variable rate, price, or amount,

which is based on any current, objectively determinable financial or economic information with respect to commodities which is not within the control of any of the parties to the contract or instrument and is not unique to any of the parties’ circumstances.

“(2) HEDGING TRANSACTION.—

“(A) IN GENERAL.—For purposes of this section, the term ‘hedging transaction’ means any transaction entered into by the taxpayer in the normal course of the taxpayer’s trade or business primarily—

“(i) to manage risk of price changes or currency fluctuations with respect to ordinary property which is held or to be held by the taxpayer,

“(ii) to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer, or

“(iii) to manage such other risks as the Secretary may prescribe in regulations.



- Regulations. “(B) TREATMENT OF NONIDENTIFICATION OR IMPROPER IDENTIFICATION OF HEDGING TRANSACTIONS.—Notwithstanding subsection (a)(7), the Secretary shall prescribe regulations to properly characterize any income, gain, expense, or loss arising from a transaction—
- “ (i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or
- “ (ii) which was so identified but is not a hedging transaction.
- “(3) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (6) and (7) of subsection (a) in the case of transactions involving related parties.”.
- (b) MANAGEMENT OF RISK.—
- 26 USC 475. (1) Section 475(c)(3) of such Code is amended by striking “reduces” and inserting “manages”.
- 26 USC 871. (2) Section 871(h)(4)(C)(iv) of such Code is amended by striking “to reduce” and inserting “to manage”.
- 26 USC 988. (3) Clauses (i) and (ii) of section 988(d)(2)(A) of such Code are each amended by striking “to reduce” and inserting “to manage”.
- 26 USC 1256. (4) Paragraph (2) of section 1256(e) of such Code is amended to read as follows:
- “(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term ‘hedging transaction’ means any hedging transaction (as defined in section 1221(b)(2)(A)) if, before the close of the day on which such transaction was entered into (or such earlier time as the Secretary may prescribe by regulations), the taxpayer clearly identifies such transaction as being a hedging transaction.”.
- (c) CONFORMING AMENDMENTS.—
- (1) Each of the following sections of such Code are amended by striking “section 1221” and inserting “section 1221(a)”:
- 26 USC 170. (A) Section 170(e)(3)(A).
- (B) Section 170(e)(4)(B).
- 26 USC 367. (C) Section 367(a)(3)(B)(i).
- 26 USC 818. (D) Section 818(c)(3).
- 26 USC 865. (E) Section 865(i)(1).
- 26 USC 1092. (F) Section 1092(a)(3)(B)(ii)(II).
- 26 USC 1231. (G) Subparagraphs (C) and (D) of section 1231(b)(1).
- 26 USC 1234. (H) Section 1234(a)(3)(A).
- (2) Each of the following sections of such Code are amended by striking “section 1221(1)” and inserting “section 1221(a)(1)”:
- 26 USC 198. (A) Section 198(c)(1)(A)(i).
- 26 USC 263. (B) Section 263A(b)(2)(A).
- 26 USC 267. (C) Clauses (i) and (iii) of section 267(f)(3)(B).
- 26 USC 341. (D) Section 341(d)(3).
- 26 USC 543. (E) Section 543(a)(1)(D)(i).
- 26 USC 751. (F) Section 751(d)(1).
- 26 USC 775. (G) Section 775(c).
- 26 USC 856. (H) Section 856(c)(2)(D).
- (I) Section 856(c)(3)(C).
- (J) Section 856(e)(1).
- (K) Section 856(j)(2)(B).
- 26 USC 857. (L) Section 857(b)(4)(B)(i).
- (M) Section 857(b)(6)(B)(iii).

(N) Section 864(c)(4)(B)(iii).	26 USC 864.
(O) Section 864(d)(3)(A).	
(P) Section 864(d)(6)(A).	
(Q) Section 954(c)(1)(B)(iii).	26 USC 954.
(R) Section 995(b)(1)(C).	26 USC 995.
(S) Section 1017(b)(3)(E)(i).	26 USC 1017.
(T) Section 1362(d)(3)(C)(ii).	26 USC 1362.
(U) Section 4662(c)(2)(C).	26 USC 4662.
(V) Section 7704(c)(3).	26 USC 7704.
(W) Section 7704(d)(1)(D).	
(X) Section 7704(d)(1)(G).	
(Y) Section 7704(d)(5).	

(3) Section 818(b)(2) of such Code is amended by striking “section 1221(2)” and inserting “section 1221(a)(2)”. 26 USC 818.

(4) Section 1397B(e)(2) of such Code is amended by striking “section 1221(4)” and inserting “section 1221(a)(4)”. 26 USC 1397B note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after the date of the enactment of this Act. 26 USC 170 note.

#### SEC. 533. EXPANSION OF REPORTING OF CANCELLATION OF INDEBTEDNESS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 6050P(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking “and” at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting “, and”, and by inserting after subparagraph (C) the following new subparagraph: 26 USC 6050P.

“(D) any organization a significant trade or business of which is the lending of money.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999. 26 USC 6050P note.

#### SEC. 534. LIMITATION ON CONVERSION OF CHARACTER OF INCOME FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1259 the following new section:

##### “SEC. 1260. GAINS FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS. 26 USC 1260.

“(a) IN GENERAL.—If the taxpayer has gain from a constructive ownership transaction with respect to any financial asset and such gain would (without regard to this section) be treated as a long-term capital gain—

“(1) such gain shall be treated as ordinary income to the extent that such gain exceeds the net underlying long-term capital gain, and

“(2) to the extent such gain is treated as a long-term capital gain after the application of paragraph (1), the determination of the capital gain rate (or rates) applicable to such gain under section 1(h) shall be determined on the basis of the respective rate (or rates) that would have been applicable to the net underlying long-term capital gain.

“(b) INTEREST CHARGE ON DEFERRAL OF GAIN RECOGNITION.—

“(1) IN GENERAL.—If any gain is treated as ordinary income for any taxable year by reason of subsection (a)(1), the tax

imposed by this chapter for such taxable year shall be increased by the amount of interest determined under paragraph (2) with respect to each prior taxable year during any portion of which the constructive ownership transaction was open. Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

“(2) AMOUNT OF INTEREST.—The amount of interest determined under this paragraph with respect to a prior taxable year is the amount of interest which would have been imposed under section 6601 on the underpayment of tax for such year which would have resulted if the gain (which is treated as ordinary income by reason of subsection (a)(1)) had been included in gross income in the taxable years in which it accrued (determined by treating the income as accruing at a constant rate equal to the applicable Federal rate as in effect on the day the transaction closed). The period during which such interest shall accrue shall end on the due date (without extensions) for the return of tax imposed by this chapter for the taxable year in which such transaction closed.

“(3) APPLICABLE FEDERAL RATE.—For purposes of paragraph (2), the applicable Federal rate is the applicable Federal rate determined under section 1274(d) (compounded semiannually) which would apply to a debt instrument with a term equal to the period the transaction was open.

“(4) NO CREDITS AGAINST INCREASE IN TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining—

“(A) the amount of any credit allowable under this chapter, or

“(B) the amount of the tax imposed by section 55.

“(c) FINANCIAL ASSET.—For purposes of this section—

“(1) IN GENERAL.—The term ‘financial asset’ means—

“(A) any equity interest in any pass-thru entity, and

“(B) to the extent provided in regulations—

“(i) any debt instrument, and

“(ii) any stock in a corporation which is not a pass-thru entity.

“(2) PASS-THRU ENTITY.—For purposes of paragraph (1), the term ‘pass-thru entity’ means—

“(A) a regulated investment company,

“(B) a real estate investment trust,

“(C) an S corporation,

“(D) a partnership,

“(E) a trust,

“(F) a common trust fund,

“(G) a passive foreign investment company (as defined in section 1297 without regard to subsection (e) thereof),

“(H) a foreign personal holding company,

“(I) a foreign investment company (as defined in section 1246(b)), and

“(J) a REMIC.

“(d) CONSTRUCTIVE OWNERSHIP TRANSACTION.—For purposes of this section—

“(1) IN GENERAL.—The taxpayer shall be treated as having entered into a constructive ownership transaction with respect to any financial asset if the taxpayer—

“(A) holds a long position under a notional principal contract with respect to the financial asset,

“(B) enters into a forward or futures contract to acquire the financial asset,

“(C) is the holder of a call option, and is the grantor of a put option, with respect to the financial asset and such options have substantially equal strike prices and substantially contemporaneous maturity dates, or

“(D) to the extent provided in regulations prescribed by the Secretary, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

“(2) EXCEPTION FOR POSITIONS WHICH ARE MARKED TO MARKET.—This section shall not apply to any constructive ownership transaction if all of the positions which are part of such transaction are marked to market under any provision of this title or the regulations thereunder.

“(3) LONG POSITION UNDER NOTIONAL PRINCIPAL CONTRACT.—A person shall be treated as holding a long position under a notional principal contract with respect to any financial asset if such person—

“(A) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on such financial asset for a specified period, and

“(B) is obligated to reimburse (or provide credit for) all or substantially all of any decline in the value of such financial asset.

“(4) FORWARD CONTRACT.—The term ‘forward contract’ means any contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

“(e) NET UNDERLYING LONG-TERM CAPITAL GAIN.—For purposes of this section, in the case of any constructive ownership transaction with respect to any financial asset, the term ‘net underlying long-term capital gain’ means the aggregate net capital gain that the taxpayer would have had if—

“(1) the financial asset had been acquired for fair market value on the date such transaction was opened and sold for fair market value on the date such transaction was closed, and

“(2) only gains and losses that would have resulted from the deemed ownership under paragraph (1) were taken into account.

The amount of the net underlying long-term capital gain with respect to any financial asset shall be treated as zero unless the amount thereof is established by clear and convincing evidence.

“(f) SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY.—Except as provided in regulations prescribed by the Secretary, if a constructive ownership transaction is closed by reason of taking delivery, this section shall be applied as if the taxpayer had sold all the contracts, options, or other positions which are part of such transaction for fair market value on the closing date. The amount of gain recognized under the preceding sentence shall not exceed the

amount of gain treated as ordinary income under subsection (a). Proper adjustments shall be made in the amount of any gain or loss subsequently realized for gain recognized and treated as ordinary income under this subsection.

“(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

“(1) to permit taxpayers to mark to market constructive ownership transactions in lieu of applying this section, and

“(2) to exclude certain forward contracts which do not convey substantially all of the economic return with respect to a financial asset.”.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 1260. Gains from constructive ownership transactions.”.

26 USC 1260  
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after July 11, 1999.

**SEC. 535. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.**

(a) EXTENSION.—

26 USC 420.

(1) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking “in any taxable year beginning after December 31, 2000” and inserting “made after December 31, 2005”.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking “in a taxable year beginning before January 1, 2001” and inserting “made before January 1, 2006”; and

(ii) by striking “January 1, 1995” and inserting “the date of the enactment of the Tax Relief Extension Act of 1999”.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 420(c) of the Internal Revenue Code of 1986 is amended to read as follows:

“(3) MINIMUM COST REQUIREMENTS.—

“(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the

2 taxable years immediately preceding the taxable year of the qualified transfer.

“(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term ‘applicable employer cost’ means, with respect to any taxable year, the amount determined by dividing—

“(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

“(I) without regard to any reduction under subsection (e)(1)(B), and

“(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

“(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

“(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

“(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term ‘cost maintenance period’ means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

“(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement of this subsection.”.

(2) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 420(b)(1)(C) of such Code is amended by striking “benefits” and inserting “cost”. 26 USC 420.

(B) Subparagraph (D) of section 420(e)(1) of such Code is amended by striking “and shall not be subject to the minimum benefit requirements of subsection (c)(3)” and inserting “or in calculating applicable employer cost under subsection (c)(3)(B)”.

(c) EFFECTIVE DATES.—

26 USC 420 note.

(1) IN GENERAL.—The amendments made by this section shall apply to qualified transfers occurring after the date of the enactment of this Act.

(2) TRANSITION RULE.—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).

**SEC. 536. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.**

**(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—**

26 USC 453. (1) **IN GENERAL.**—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

**“(a) USE OF INSTALLMENT METHOD.—**

“(1) **IN GENERAL.**—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

“(2) **ACCRUAL METHOD TAXPAYER.**—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (1)(2).”

(2) **CONFORMING AMENDMENTS.**—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking “(a)” each place it appears and inserting “(a)(1)”.

26 USC 453A. (b) **MODIFICATION OF PLEDGE RULES.**—Paragraph (4) of section 453A(d) of such Code (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: “A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.”

26 USC 453 note. (c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

**SEC. 537. DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION FOR TRANSFERS ASSOCIATED WITH SPLIT-DOLLAR INSURANCE ARRANGEMENTS.**

26 USC 170. (a) **IN GENERAL.**—Subsection (f) of section 170 of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

**“(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—**

“(A) **IN GENERAL.**—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

“(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

“(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

“(B) **PERSONAL BENEFIT CONTRACT.**—For purposes of subparagraph (A), the term ‘personal benefit contract’ means, with respect to the transferor, any life insurance,

annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

“(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—

In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

“(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—

If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

“(i) such organization possesses all of the incidents of ownership under such contract,

“(ii) such organization is entitled to all the payments under such contract, and

“(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

“(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

“(i) such trust possesses all of the incidents of ownership under such contract, and

“(ii) such trust is entitled to all the payments under such contract.

“(F) EXCISE TAX ON PREMIUMS PAID.—

“(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

“(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.



“(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

“(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

“(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

“(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subparagraph B of chapter 42.

“(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

“(i) such State law requirement was in effect on February 8, 1999,

“(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

“(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

“(H) MEMBER OF FAMILY.—For purposes of this paragraph, an individual’s family consists of the individual’s grandparents, the grandparents of such individual’s spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

“(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.”.

26 USC 170 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

**SEC. 538. DISTRIBUTIONS BY A PARTNERSHIP TO A CORPORATE PARTNER OF STOCK IN ANOTHER CORPORATION.**

(a) IN GENERAL.—Section 732 of the Internal Revenue Code of 1986 (relating to basis of distributed property other than money) is amended by adding at the end the following new subsection: 26 USC 732.

**“(f) CORRESPONDING ADJUSTMENT TO BASIS OF ASSETS OF A DISTRIBUTED CORPORATION CONTROLLED BY A CORPORATE PARTNER.—**

**“(1) IN GENERAL.—If—**

**“(A) a corporation (hereafter in this subsection referred to as the ‘corporate partner’) receives a distribution from a partnership of stock in another corporation (hereafter in this subsection referred to as the ‘distributed corporation’),**

**“(B) the corporate partner has control of the distributed corporation immediately after the distribution or at any time thereafter, and**

**“(C) the partnership’s adjusted basis in such stock immediately before the distribution exceeded the corporate partner’s adjusted basis in such stock immediately after the distribution,**

then an amount equal to such excess shall be applied to reduce (in accordance with subsection (c)) the basis of property held by the distributed corporation at such time (or, if the corporate partner does not control the distributed corporation at such time, at the time the corporate partner first has such control).

**“(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS BEFORE CONTROL ACQUIRED.—Paragraph (1) shall not apply to any distribution of stock in the distributed corporation if—**

**“(A) the corporate partner does not have control of such corporation immediately after such distribution, and**

**“(B) the corporate partner establishes to the satisfaction of the Secretary that such distribution was not part of a plan or arrangement to acquire control of the distributed corporation.**

**“(3) LIMITATIONS ON BASIS REDUCTION.—**

**“(A) IN GENERAL.—The amount of the reduction under paragraph (1) shall not exceed the amount by which the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds the corporate partner’s adjusted basis in the stock of the distributed corporation.**

**“(B) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction under paragraph (1) in the basis of any property shall exceed the adjusted basis of such property (determined without regard to such reduction).**

**“(4) GAIN RECOGNITION WHERE REDUCTION LIMITED.—If the amount of any reduction under paragraph (1) (determined after the application of paragraph (3)(A)) exceeds the aggregate adjusted bases of the property of the distributed corporation—**

**“(A) such excess shall be recognized by the corporate partner as long-term capital gain, and**

“(B) the corporate partner’s adjusted basis in the stock of the distributed corporation shall be increased by such excess.

“(5) CONTROL.—For purposes of this subsection, the term ‘control’ means ownership of stock meeting the requirements of section 1504(a)(2).

“(6) INDIRECT DISTRIBUTIONS.—For purposes of paragraph (1), if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to subsection (a)(2) or (b), the corporation shall be treated as receiving a distribution of such stock from a partnership.

“(7) SPECIAL RULE FOR STOCK IN CONTROLLED CORPORATION.—If the property held by a distributed corporation is stock in a corporation which the distributed corporation controls, this subsection shall be applied to reduce the basis of the property of such controlled corporation. This subsection shall be reapplied to any property of any controlled corporation which is stock in a corporation which it controls.

“(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to avoid double counting and to prevent the abuse of such purposes.”.

26 USC 732 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to distributions made after July 14, 1999.

(2) PARTNERSHIPS IN EXISTENCE ON JULY 14, 1999.—In the case of a corporation which is a partner in a partnership as of July 14, 1999, the amendment made by this section shall apply to any distribution made (or treated as made) to such partner from such partnership after June 30, 2001, except that this paragraph shall not apply to any distribution after the date of the enactment of this Act unless the partner makes an election to have this paragraph apply to such distribution on the partner’s return of Federal income tax for the taxable year in which such distribution occurs.

## **PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS**

### **Subpart A—Treatment of Income and Services Provided by Taxable REIT Subsidiaries**

#### **SEC. 541. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.**

(a) IN GENERAL.—Subparagraph (B) of section 856(c)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

26 USC 856.

“(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)),

“(ii) not more than 20 percent of the value of its total assets is represented by securities of one or more taxable REIT subsidiaries, and

“(iii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—

“(I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,

“(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and

“(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.”

(b) EXCEPTION FOR STRAIGHT DEBT SECURITIES.—Subsection (c) of section 856 of such Code is amended by adding at the end the following new paragraph:

“(7) STRAIGHT DEBT SAFE HARBOR IN APPLYING PARAGRAPH (4).—Securities of an issuer which are straight debt (as defined in section 1361(c)(5) without regard to subparagraph (B)(iii) thereof) shall not be taken into account in applying paragraph (4)(B)(ii)(III) if—

“(A) the issuer is an individual, or

“(B) the only securities of such issuer which are held by the trust or a taxable REIT subsidiary of the trust are straight debt (as so defined), or

“(C) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.”

**SEC. 542. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.**

(a) INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.—Clause (i) of section 856(d)(7)(C) of the Internal Revenue Code of 1986 (relating to exceptions to impermissible tenant service income) is amended by inserting “or through a taxable REIT subsidiary of such trust” after “income”.

(b) CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.—

(1) IN GENERAL.—Subsection (d) of section 856 of such Code (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

“(8) SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of either of the following subparagraphs are met:

“(A) LIMITED RENTAL EXCEPTION.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust’s property for comparable space.

“(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified

lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

“(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

“(A) IN GENERAL.—The term ‘eligible independent contractor’ means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

“(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

“(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

“(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

“(I) January 1, 1999, or

“(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility.

“(C) RENEWALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(iii)—

“(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

“(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

“(I) on such date, a lease of such property from the trust was in effect, and

“(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

“(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified lodging facility’ means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

“(ii) LODGING FACILITY.—The term ‘lodging facility’ means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

“(iii) CUSTOMARY AMENITIES AND FACILITIES.—The term ‘lodging facility’ includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

“(E) OPERATE INCLUDES MANAGE.—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

“(F) RELATED PERSON.—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.”

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 856(d)(2) of such Code is amended by inserting “except as provided in paragraph (8),” after “(B)”.

(3) DETERMINING RENTS FROM REAL PROPERTY.—

(A)(i) Paragraph (1) of section 856(d) of such Code is amended by striking “adjusted bases” each place it occurs and inserting “fair market values”.

(ii) The amendment made by this subparagraph shall apply to taxable years beginning after December 31, 2000.

(B)(i) Clause (i) of section 856(d)(2)(B) of such Code is amended by striking “number” and inserting “value”.

(ii) The amendment made by this subparagraph shall apply to amounts received or accrued in taxable years beginning after December 31, 2000, except for amounts paid pursuant to leases in effect on July 12, 1999, or pursuant to a binding contract in effect on such date and at all times thereafter.

Applicability.  
Effective date.

26 USC 856 note.

26 USC 856 note.

#### SEC. 543. TAXABLE REIT SUBSIDIARY.

(a) IN GENERAL.—Section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(1) TAXABLE REIT SUBSIDIARY.—For purposes of this part—

“(1) IN GENERAL.—The term ‘taxable REIT subsidiary’ means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

“(A) such trust directly or indirectly owns stock in such corporation, and

“(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

“(2) THIRTY-FIVE PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term ‘taxable REIT subsidiary’ includes, with respect to any real estate investment trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

“(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

“(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)). The rule of section 856(c)(7) shall apply for purposes of subparagraph (B).

“(3) EXCEPTIONS.—The term ‘taxable REIT subsidiary’ shall not include—

“(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

“(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

“(4) DEFINITIONS.—For purposes of paragraph (3)—

“(A) LODGING FACILITY.—The term ‘lodging facility’ has the meaning given to such term by paragraph (9)(D)(ii).

“(B) HEALTH CARE FACILITY.—The term ‘health care facility’ has the meaning given to such term by subsection (e)(6)(D)(ii).”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) of such Code is amended by adding at the end the following new sentence: “Such term shall not include a taxable REIT subsidiary.”.

**SEC. 544. LIMITATION ON EARNINGS STRIPPING.**

26 USC 163.

Paragraph (3) of section 163(j) of the Internal Revenue Code of 1986 (relating to limitation on deduction for interest on certain indebtedness) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.”.

**SEC. 545. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.**

(a) IN GENERAL.—Subsection (b) of section 857 of the Internal Revenue Code of 1986 (relating to method of taxation of real estate

investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

“(7) INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.—

“(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

“(B) REDETERMINED RENTS.—

“(i) IN GENERAL.—The term ‘redetermined rents’ means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

“(ii) EXCEPTION FOR CERTAIN SERVICES.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

“(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

“(iv) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

“(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

“(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

“(v) EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

“(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust’s property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

“(II) the charge for such service from such subsidiary is separately stated.



“(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY’S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary’s direct cost in furnishing or rendering the service.

“(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms’ length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

“(C) REDETERMINED DEDUCTIONS.—The term ‘redetermined deductions’ means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

“(D) EXCESS INTEREST.—The term ‘excess interest’ means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

“(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

“(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.”

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) of such Code (relating to real estate investment trust taxable income) is amended by striking “paragraph (5)” and inserting “paragraphs (5) and (7)”.

26 USC 856 note. **SEC. 546. EFFECTIVE DATE.**

(a) IN GENERAL.—The amendments made by this subpart shall apply to taxable years beginning after December 31, 2000.

(b) TRANSITIONAL RULES RELATED TO SECTION 541.—

(1) EXISTING ARRANGEMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by section 541 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on July 12, 1999;

(ii) securities of a corporation held by an entity on July 12, 1999, if such trust acquires control of such entity pursuant to a written binding contract in effect on such date and at all times thereafter before such acquisition;

(iii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) or (ii) in a transaction in which gain or loss is not recognized; and

(iv) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are described in clause (i), (ii), or (iii) with respect to any other real estate investment trust.

(B) **NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.**—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after July 12, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset;

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986; or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(C) **LIMITATION ON TRANSITION RULES.**—Subparagraph (A) shall cease to apply to securities of a corporation held, acquired, or received, directly or indirectly, by a real estate investment trust as of the first day after July 12, 1999, on which such trust acquires any additional securities of such corporation other than—

(i) pursuant to a binding contract in effect on July 12, 1999, and at all times thereafter; or

(ii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) **TAX-FREE CONVERSION.**—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 541 does not apply to such corporation by reason of paragraph (1); and

(B) such election first takes effect before January 1, 2004,

such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

**SEC. 547. STUDY RELATING TO TAXABLE REIT SUBSIDIARIES.**

26 USC 856 note.

The Secretary of the Treasury shall conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries. The Secretary shall submit a report to the Congress describing the results of such study.

### Subpart B—Health Care REITs

#### SEC. 551. HEALTH CARE REITS.

(a) SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.—Subsection (e) of section 856 of the Internal Revenue Code of 1986 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

26 USC 856.

“(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

“(A) ACQUISITION AT EXPIRATION OF LEASE.—The term ‘foreclosure property’ shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

“(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

“(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

“(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust’s interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

“(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

“(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

“(ii) any lease of property entered into after such date if—

“(I) on such date, a lease of such property from the trust was in effect, and

“(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

“(D) QUALIFIED HEALTH CARE PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified health care property’ means any real property (including interests therein), and any personal property incident to such real property, which—

“(I) is a health care facility, or

“(II) is necessary or incidental to the use of a health care facility.

“(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term ‘health care facility’ means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

26 USC 856 note.

### Subpart C—Conformity With Regulated Investment Company Rules

#### SEC. 556. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) of the Internal Revenue Code of 1986 (relating to requirements applicable to real estate investment trusts) are each amended by striking “95 percent (90 percent for taxable years beginning before January 1, 1980)” and inserting “90 percent”.

26 USC 857.

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) of such Code (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking “95 percent (90 percent in the case of taxable years beginning before January 1, 1980)” and inserting “90 percent”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

26 USC 857 note.

### Subpart D—Clarification of Exception From Impermissible Tenant Service Income

#### SEC. 561. CLARIFICATION OF EXCEPTION FOR INDEPENDENT OPERATORS.

(a) IN GENERAL.—Paragraph (3) of section 856(d) of the Internal Revenue Code of 1986 (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

26 USC 856.

“In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock

of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).”

26 USC 856 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

### Subpart E—Modification of Earnings and Profits Rules

#### SEC. 566. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—

26 USC 852.

(1) IN GENERAL.—Subsection (c) of section 852 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

“(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and

“(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.”

26 USC 857.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 857(d)(3) of such Code is amended to read as follows:

“(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and”.

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) of such Code is amended by inserting before the period “and section 858”.

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) of such Code is amended by adding at the end the following new sentence: “If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.”

26 USC 852 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

### Subpart F—Modification of Estimated Tax Rules

#### SEC. 571. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.

26 USC 6655.

(a) IN GENERAL.—Subsection (e) of section 6655 of the Internal Revenue Code of 1986 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

“(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—

“(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (1)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

“(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term ‘closely held real estate investment trust’ means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (1)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after December 15, 1999.

26 USC 6655  
note.

Approved December 17, 1999.

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**LEGISLATIVE HISTORY—H.R. 1180 (S. 331):**

HOUSE REPORTS: Nos. 106-220, Pt. 1 (Comm. on Commerce) and 106-478 (Comm. of Conference).

SENATE REPORTS: No. 106-37 accompanying S. 331 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 145 (1999):

Oct. 19, considered and passed House.

Oct. 21, considered and passed Senate, amended, in lieu of S. 331.

Nov. 18, House agreed to conference report.

Nov. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):

Dec. 17, Presidential remarks and statement.





**Remarks on Signing the Ticket to  
Work and Work Incentives  
Improvement Act of 1999**

*December 17, 1999*

Thank you. Senator Kennedy, Senator Jeffords, we thank you for your leadership and your remarks today. And Senator Roth, we thank you very much. We know this couldn't have happened without you. And Senator Moynihan, Representative Lazio, thank you, sir. And Representative Waxman and Representative Brown who are here, and Representative Dingell who isn't here—I want to thank all of you for your leadership in the House. Give them all a hand. *[Applause]*

I also want to thank the members of the administration who were particularly active in supporting this bill: Secretary Herman, the cochair of my task force on the employment of adults with disabilities; Secretary Shalala; Secretary Summers; Social Security Commissioner Apfel. I'd like to thank, in the White House, my Chief of Staff John Podesta, Chris Jennings, and Jeanne Lambrew, who had a lot to do with this bill, as all of you know.

I want to thank Senator Dole, especially, and through him all the citizens who came forward and made it possible for this to be a genuinely American bill. I want to welcome the members of the Roosevelt family who are here today, particularly Jim and Ann Roosevelt, my longtime friends. And now Jim is a member of this administration, something I'm very proud of.

I want to thank you, Justin Dart, and the members of the disability community who are here, for this and every other issue that



we've worked on for over 7 years now. And I want to acknowledge—James Sullivan really spoke for three others who are here—Donna McNamee, Paul Marshall, and Wesley Vinner. I thank them for being up here, because every one of them represents a different, slightly different story of someone who will benefit from this bill. and I thank them for sharing their stories with us.

I think it's kind of interesting, don't you, that Mr. Sullivan, from New Hampshire and Senator Jeffords, from Vermont, are the only two people up here without coats on? [*Laughter*] This is a warm December day in New England. [*Laughter*]

Senator Jeffords, you made that remark that President Roosevelt never carried Vermont. You know, my family communes with the Roosevelts on a regular basis—[*laughter*—you may remember that. And Eleanor told Hillary last night you're forgiven, all is forgiven now. [*Laughter*] This wipes the slate clean—this bill does. [*Laughter*]

John Sweeney, we thank you for being here. And we thank the labor community for their support of this legislation, as well.

I think it is wonderfully fitting that this is the last piece of legislation a President of the United States will sign in the entire 20th century. We do it at this magnificent memorial to Franklin Roosevelt, who from his wheelchair lifted our Nation out of depression and led the free world to victory in World War II, who laid the building blocks for world peace and security that we enjoy today, and accomplished it all as an American with a disability.

In his time, as we all know—and we've had a lot of debates about that in this memorial context—Roosevelt felt he needed to keep his wheelchair from public view. Most people believed being disabled meant being unable, though he proved them very wrong every day. Today, in the spirit of his leadership and the wake of his accomplishments, we move further along on our Nation's marvelous journey of equal opportunity for all.

This is a good time for our country. We're ending the century on a high note, with 20 million new jobs since 1993, the lowest unemployment rate in 30 years, the lowest welfare rolls in 32 years, the lowest poverty rate

in 20 years, in February, the longest economic expansion in our entire history. But in spite of this good economic news, we know that three out of four people with significant disabilities are not working. They're ready to work, they're willing to work, and they are very able to work. But as we have heard, they face the daunting barrier of losing their Medicare or Medicaid coverage if they get a job.

For many Americans with disabilities, medical bills, as you just heard from our previous speaker, may cost thousands more than what is typically covered by an employer's private health insurance. For some, including some on this stage, those medical bills, because of the attendant care services, may add up to more than any reasonable salary a person with disabilities could ever hope to earn.

And yet, quite beyond the human cost of denying people the dignity of work, this defies common sense and economic logic. It doesn't make sense for people to be denied the dignity of work and for the taxpayers to pay the bills, whether they're working or not, and therefore, losing the benefit of the productivity, the contributions to our economy and society, and as you just heard, the tax receipt of working Americans.

Secretary Summers is here. You wouldn't believe how much time we spend arguing over how much longer this economic expansion can go on. How can we keep it going without inflation? How many expansions in the past have been broken because inflation finally burst through and had to be taken down and that led to a recession?

Well, one way we can keep this economic expansion going is to take it to people and places who aren't part of it. That's what our new markets initiative to poor areas of America is all about. And make no mistake about it, that will be one big objective of this bill. This is an inflation-free way to keep America's economy growing. You are helping every single American—not just Americans with disabilities—every single American will be helped by this legislation today.

But of course, even more compelling than the economic argument is the human one. Today, we say with a simple but clear voice, no one should have to choose between taking a job and having health care.

This legislation reorients our policy by saying health care ought to be a tool to getting a job, earning a salary, paying taxes, and living up to one's God-given potential. You don't have to worry about losing Medicare or Medicaid anymore.

This landmark measure will also make a real difference to people who are facing the early onset of diseases like AIDS, muscular dystrophy, Parkinson's, or diabetes. Right now, they may be able to work, but their work conditions are not deemed severe enough to qualify for Medicare. In other words, they may only become eligible for health care when they're no longer able to work. Now the problem is they're uninsurable because of the condition they have, even though they're not disabled. So they're also in a different kind of double-bind.

With this bill—thanks again to bipartisan support in Congress and to the fact that the Senate Finance Committee and the House Ways and Means Committee found a way to fund it—we are going to have a \$250 million demonstration program that will allow these Americans to buy into the Medicare program, so they can stay on the job and don't have to give it up to get health care when they're perfectly capable of working. This is also a very important feature of this bill.

And finally, both Senator Kennedy and Senator Jeffords mentioned the Ticket to Work legislation that's a part of this bill. This creates long-overdue reforms of the job-training program, so people with disabilities can make their own choices about vocational rehabilitation services, the ones that are best for them.

Taken together, clearly, this is the most significant advancement for people with disabilities since the Americans with Disabilities Act almost a decade ago. It continues our administration's efforts to replace barriers to opportunity with policies based on inclusion, empowerment, and independence.

That's why we reformed welfare, to reward the dignity of work, why we doubled the earned-income tax credit for low-income working people, particularly those with children, raised the minimum wage, enacted the family and medical leave law. This bill takes us another huge step in the right direction of both liberating and rewarding the creative

energies of all Americans. But our task isn't done.

I often think it's ironic that, when we have these bill signings, the Presidents get to make the speeches and sign the bills, but the Members of Congress must be sitting out there thinking they did all the work. [Laughter] And in truth, they did the lion's share, and I was proud to support them.

But now it's our turn. We have to make it work in the lives of real people. I have instructed Secretary Shalala, Secretary Herman, and Commissioner Apfel to take immediate action to implement this legislation, to team up with the States advocates, businesses, and others who are crucial to make this bill work.

Now, all of you here who had a hand in this know that the way it's set up, States have a vital role to play. We want to take every opportunity to help every single State in America take maximum advantage of the new options provided under this legislation. We want to encourage employees to reach out and tap the talented pool of potential workers that are now available. We want to work with all of you to ensure that we effectively get the word out to people who have disabilities so they actually know about the benefits of this legislation.

This is about more than jobs or paychecks—I'll say it again—it's about more than keeping our recovery going. It's fundamentally about the dignity of each human being, about the realization of a quality of opportunity, about recognizing that work is at the heart of the American dream.

In the end, the counsel of Franklin Roosevelt that's etched in the walls of this memorial guides us still. He said, "No country, however rich, can afford the waste of its human resources." That is ever more true as we cross the threshold into the new millennium.

I think Mr. Roosevelt would be proud of all of you today. I think we have honored his life and his legacy. In the new century, America will realize even more of its promise because we have unleashed the promise of more Americans.

Congratulations, and God bless you all.

I'd like to ask the Members of Congress and the administration to come up for the bill signing now.

NOTE: The President spoke at 9:55 a.m. at the Franklin Delano Roosevelt Memorial. In his remarks, he referred to James Sullivan, Hudson, NH, who introduced the President, Donna McNamee, Cleveland, OH, Paul Marshall, Wheaton, MD, and Wesley Vinner, Riverdale, MD, citizens who will benefit from the Ticket to Work and Work Incentives Improvement Act; Representative Sherrod Brown; former Senator Bob Dole; Justin Dart, Jr., chairman and founder, Justice For All; Jeanne Lambrew, Senior Health Policy Analyst, National Economic Council; and John J. Sweeney, president, AFL-CIO. H.R. 1180, approved December 17, was assigned Public Law No. 106-170. A tape was not available for verification of the content of these remarks.





# SOCIAL SECURITY

Office of the Commissioner

NOV 23 1999

The Honorable Jacob Joseph Lew  
Director  
Office of Management and Budget  
Old Executive Office Bldg. Rm. 252  
17<sup>th</sup> and Pennsylvania Avenue, NW  
Washington, D.C. 20503

Dear Mr. Lew:

This is in response to your request for our views on the enrolled bill H.R. 1180, the "Ticket to Work and Work Incentives Improvement Act of 1999".

We have reviewed the bill. This bill supports the Administration's efforts to empower and promote independence of individuals with disabilities. Among the bill's many important provisions is the establishment of a program that will allow beneficiaries a choice of public or private service providers and incentives for those providers to assist beneficiaries on a long term basis.

These provisions, combined with the extensions in health care coverage contained in this bill, will greatly increase opportunities for beneficiaries with disabilities to work. I strongly recommend that the President approve H.R. 1180.

Sincerely,

Kenneth S. Apfel  
Commissioner  
of Social Security

Enclosure: Summary of Social Security Administration Provisions

## Ticket to Work and Work Incentives Improvement Act of 1999 Section-By-Section Summary

### Ticket to Work and Self-Sufficiency Program

Section 101 directs the Commissioner to establish a Ticket to Work and Self-Sufficiency Program which would provide Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disability beneficiaries with a ticket they may use to obtain vocational rehabilitation services, employment services, and other support services from an employment network of their choice, effective with the first month following 1 year after enactment.

The section also provides that:

- The Commissioner selects and enters into agreements with one or more organizations in the public or private sector to serve as program manager(s) to assist the Commissioner in administering the program;
- Program managers select employment networks including alternate participants who choose to act as an employment network to provide services under the program;
- Program managers monitor employment networks to ensure that beneficiaries have adequate choices of services and ensures that employment networks comply with their agreements;
- Employment networks are responsible for coordination and delivery of services and develop individual work plans with each beneficiary;
- Employment networks will elect to be paid under either an outcome payment system or outcome-milestone payment system which would combine outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment;
- State vocational rehabilitation agencies may elect to participate in the program as an employment network with respect to each disabled beneficiary for whom they will provide services;
- The Commissioner is prohibited from initiating continuing disability reviews (CDRs) during the period a beneficiary is using a Ticket;
- Payments to employment networks are to be made from the OASDI Trust Funds in the case of SSDI beneficiaries and from appropriations made available for making SSI payments under title XVI. Administrative expenses are to be authorized as appropriate from amounts made available for administration of title II and title XVI of the Social Security Act;

- A 12-member Work Incentives Advisory Panel within the Social Security Administration is required to advise the Commissioner with respect to the Ticket to Work and Self-Sufficiency program, among other duties. At least one-half of the panel is to be composed of individuals with disabilities or representatives of individuals with a disability, preferably current and former SSDI and SSI beneficiaries.

Section 101 also directs the Commissioner to implement the Ticket to Work and Self-Sufficiency Program in graduated phases at sites selected by the Commissioner with full implementation completed as soon as practicable, but not later than 3 years after the effective date.

#### Work Activity Standard as a Basis for Review

Section 111 prohibits the use of work activity as a basis for review for all individuals who are entitled to Old-Age, Survivors, and Disability Insurance (OASDI) benefits and have received such benefits for at least 24 months. It allows for CDRs on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity.

#### Expedited Reinstatement of Benefits

Section 112 allows individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, to request reinstatement of benefits without filing a new application and receive provisional benefits up to six months while awaiting a decision. Individuals must be unable to continue working on account of their medical condition and file a reinstatement request during the 60-month period following the month of termination.

#### Work Incentives Outreach Program

Section 121 directs the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.

### State Grants for Work Incentives Assistance to Disabled Beneficiaries

Section 122 authorizes the Commissioner to make payments to protection and advocacy systems established in each state for providing information about obtaining vocational rehabilitation and employment services to individuals with disabilities.

### Continuation of Medicare Coverage

Section 202 extends premium-free Medicare Part A coverage for people with disabilities who return to work for an additional 4 1/2-year period beyond the four years allowed under current law for SSDI beneficiaries effective October 1, 2000.

### Disability Insurance Program Demonstration Project Authority

Section 301 authorizes section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects) for a 5-year period. Section 301 also directs the Commissioner to conduct demonstrations related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income.

### Reduction in Disability Benefits Based on Earnings

Section 302 directs the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner. The Commissioner is required to annually report to the Congress on the progress of the demonstration project.

### Reports and Studies

Section 303 directs the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard, estimate the current value of any disregard if the disregard had been indexed for inflation, and recommend any further changes.

### Drug Addicts and Alcoholics (DA&A)

Section 401 amends the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. Section 401 also expands the applicability of the provisions in



P.L. 104-121, which authorizes the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.

### Treatment of Prisoners

Section 402 extends the incentive payment provisions now in effect for SSI prisoners to OASDI, and authorizes the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program for purpose of determining program eligibility. It eliminates the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year. Benefits would be suspended for any month during which the person was confined because of a crime or finding of not guilty by reason of insanity, except that no monthly benefit would be suspended for any month falling within a period of confinement that lasts for less than 30 days.

Section 402 also prohibits the payment of any monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public institution based on a finding that the individual is a sexually dangerous person or a sexual predator.

### Revocation by Members of the Clergy of Exemption from Social Security Coverage

Section 403 creates a 2-year window to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption.

### Cooperative Research or Demonstration Projects under Title II and Title XVI

Section 404 clarifies the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.

### Authorization for State to Permit Annual Wage Reports

Section 405 authorizes States to permit employers to submit wage reports of domestic workers to the State on an annual rather than quarterly basis for purposes of the income and eligibility verification system for the TANF, Medicaid, food stamp and unemployment compensation programs.

### Assessment on Attorneys Who Receive their Fees Via the Social Security Administration

Section 406 allows the Commissioner to charge an assessment, not to exceed 6.3 percent, to recover the costs for determining, and certifying (processing, withholding, and distributing) fees to attorneys and eliminates the requirement that the Commissioner may not certify an attorney fee before the end of the 15-day waiting period.

### Extension of Authority of State Medicaid Fraud Control Units

Section 407 extends the authority of State Medicaid fraud control units to investigate and prosecute fraud in other Federal health care programs.

### Schedule for SSI Supplementation Payments

Section 410 requires a State that has entered into an agreement with the Commissioner for Federal administration of State supplementary payments to remit the payments and fees required of them no later than the business day preceding the SSI payment date effective for months after September 2009. Section 410 also authorizes the Commissioner to charge a penalty equal to 5 percent of the payment and fees if the remittance is received after the required date.



106TH CONGRESS  
1ST SESSION

# H. R. 3070

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend health care coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 13, 1999

Mr. HULSHOF (for himself, Mr. ARCHER, Mr. SHAW, Mr. CAMP, Ms. DUNN, Mr. ENGLISH, Mr. FOLEY, Mr. HAYWORTH, Mr. HERGER, Mr. HOUGHTON, Mr. RAMSTAD, Mr. THOMAS, and Mr. WELLER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend health care coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Ticket to Work and Work Incentives Improvement Act  
 4 of 1999”.

5 (b) **TABLE OF CONTENTS.**—The table of contents is  
 6 as follows:

Sec. 1. Short title; table of contents.

**TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND  
 RELATED PROVISIONS**

**Subtitle A—Ticket to Work and Self-Sufficiency**

Sec. 101. Establishment of the Ticket to Work and Self-Sufficiency Program.

**Subtitle B—Elimination of Work Disincentives**

Sec. 111. Work activity standard as a basis for review of an individual’s disabled status.

Sec. 112. Expedited reinstatement of disability benefits.

**Subtitle C—Work Incentives Planning, Assistance, and Outreach**

Sec. 121. Work incentives outreach program.

Sec. 122. State grants for work incentives assistance to disabled beneficiaries.

**TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES**

Sec. 201. Expanding State options under the medicaid program for workers with disabilities.

Sec. 202. Extending medicare coverage for OASDI disability benefit recipients.

Sec. 203. Grants to develop and establish State infrastructures to support working individuals with disabilities.

Sec. 204. Demonstration of coverage under the medicaid program of workers with potentially severe disabilities.

Sec. 205. Election by disabled beneficiaries to suspend medigap insurance when covered under a group health plan.

**TITLE III—DEMONSTRATION PROJECTS AND STUDIES**

Sec. 301. Extension of disability insurance program demonstration project authority.

Sec. 302. Demonstration projects providing for reductions in disability insurance benefits based on earnings.

Sec. 303. Studies and reports.

**TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS**

Sec. 401. Technical amendments relating to drug addicts and alcoholics.

Sec. 402. Treatment of prisoners.

- Sec. 403. Revocation by members of the clergy of exemption from social security coverage.
- Sec. 404. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.
- Sec. 405. Authorization for State to permit annual wage reports.
- Sec. 406. Assessment on attorneys who receive their fees via the Social Security Administration.
- Sec. 407. Extension of authority of State medicaid fraud control units.
- Sec. 408. Elimination of fraud and abuse associated with certain payments under the medicaid program.

1 **TITLE I—TICKET TO WORK AND**  
 2 **SELF-SUFFICIENCY AND RE-**  
 3 **LATED PROVISIONS**

4 **Subtitle A—Ticket to Work and**  
 5 **Self-Sufficiency**

6 **SEC. 101. ESTABLISHMENT OF THE TICKET TO WORK AND**  
 7 **SELF-SUFFICIENCY PROGRAM.**

8 (a) IN GENERAL.—Part A of title XI of the Social  
 9 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
 10 ing after section 1147 (as added by section 8 of the Non-  
 11 citizen Benefit Clarification and Other Technical Amend-  
 12 ments Act of 1998 (Public Law 105–306; 112 Stat.  
 13 2928)) the following:

14 “THE TICKET TO WORK AND SELF-SUFFICIENCY  
 15 PROGRAM

16 “SEC. 1148. (a) IN GENERAL.—The Commissioner  
 17 of Social Security shall establish a Ticket to Work and  
 18 Self-Sufficiency Program, under which a disabled bene-  
 19 ficiary may use a ticket to work and self-sufficiency issued  
 20 by the Commissioner in accordance with this section to  
 21 obtain employment services, vocational rehabilitation serv-

1 ices, or other support services from an employment net-  
2 work which is of the beneficiary's choice and which is will-  
3 ing to provide such services to such beneficiary.

4       “(b) TICKET SYSTEM.—

5               “(1) DISTRIBUTION OF TICKETS.—The Com-  
6 missioner of Social Security may issue a ticket to  
7 work and self-sufficiency to disabled beneficiaries for  
8 participation in the Program.

9               “(2) ASSIGNMENT OF TICKETS.—A disabled  
10 beneficiary holding a ticket to work and self-suffi-  
11 ciency may assign the ticket to any employment net-  
12 work of the beneficiary's choice which is serving  
13 under the Program and is willing to accept the as-  
14 signment.

15               “(3) TICKET TERMS.—A ticket issued under  
16 paragraph (1) shall consist of a document which evi-  
17 dences the Commissioner's agreement to pay (as  
18 provided in paragraph (4)) an employment network,  
19 which is serving under the Program and to which  
20 such ticket is assigned by the beneficiary, for such  
21 employment services, vocational rehabilitation serv-  
22 ices, and other support services as the employment  
23 network may provide to the beneficiary.

24               “(4) PAYMENTS TO EMPLOYMENT NET-  
25 WORKS.—The Commissioner shall pay an employ-

1       ment network under the Program in accordance with  
2       the outcome payment system under subsection  
3       (h)(2) or under the outcome-milestone payment sys-  
4       tem under subsection (h)(3) (whichever is elected  
5       pursuant to subsection (h)(1)). An employment net-  
6       work may not request or receive compensation for  
7       such services from the beneficiary.

8       “(c) STATE PARTICIPATION.—

9               “(1) IN GENERAL.—Each State agency admin-  
10       istering or supervising the administration of the  
11       State plan approved under title I of the Rehabilita-  
12       tion Act of 1973 may elect to participate in the Pro-  
13       gram as an employment network with respect to a  
14       disabled beneficiary. If the State agency does elect  
15       to participate in the Program, the State agency also  
16       shall elect to be paid under the outcome payment  
17       system or the outcome-milestone payment system in  
18       accordance with subsection (h)(1). With respect to a  
19       disabled beneficiary that the State agency does not  
20       elect to have participate in the Program, the State  
21       agency shall be paid for services provided to that  
22       beneficiary under the system for payment applicable  
23       under section 222(d) and subsections (d) and (e) of  
24       section 1615. The Commissioner shall provide for  
25       periodic opportunities for exercising such elections.



1           “(2) EFFECT OF PARTICIPATION BY STATE  
2 AGENCY.—

3           “(A) STATE AGENCIES PARTICIPATING.—

4           In any case in which a State agency described  
5           in paragraph (1) elects under that paragraph to  
6           participate in the Program, the employment  
7           services, vocational rehabilitation services, and  
8           other support services which, upon assignment  
9           of tickets to work and self-sufficiency, are pro-  
10          vided to disabled beneficiaries by the State  
11          agency acting as an employment network shall  
12          be governed by plans for vocational rehabilita-  
13          tion services approved under title I of the Reha-  
14          bilitation Act of 1973.

15          “(B) STATE AGENCIES ADMINISTERING  
16          MATERNAL AND CHILD HEALTH SERVICES PRO-  
17          GRAMS.—Subparagraph (A) shall not apply  
18          with respect to any State agency administering  
19          a program under title V of this Act.

20          “(3) AGREEMENTS BETWEEN STATE AGENCIES  
21          AND EMPLOYMENT NETWORKS.—State agencies and  
22          employment networks shall enter into agreements re-  
23          garding the conditions under which services will be  
24          provided when an individual is referred by an em-  
25          ployment network to a State agency for services.

1 The Commissioner of Social Security shall establish  
2 by regulations the timeframe within which such  
3 agreements must be entered into and the mecha-  
4 nisms for dispute resolution between State agencies  
5 and employment networks with respect to such  
6 agreements.

7 “(d) RESPONSIBILITIES OF THE COMMISSIONER OF  
8 SOCIAL SECURITY.—

9 “(1) SELECTION AND QUALIFICATIONS OF PRO-  
10 GRAM MANAGERS.—The Commissioner of Social Se-  
11 curity shall enter into agreements with 1 or more or-  
12 ganizations in the private or public sector for service  
13 as a program manager to assist the Commissioner in  
14 administering the Program. Any such program man-  
15 ager shall be selected by means of a competitive bid-  
16 ding process, from among organizations in the pri-  
17 vate or public sector with available expertise and ex-  
18 perience in the field of vocational rehabilitation or  
19 employment services.

20 “(2) TENURE, RENEWAL, AND EARLY TERMI-  
21 NATION.—Each agreement entered into under para-  
22 graph (1) shall provide for early termination upon  
23 failure to meet performance standards which shall be  
24 specified in the agreement and which shall be  
25 weighted to take into account any performance in

1 prior terms. Such performance standards shall  
2 include—

3 “(A) measures for ease of access by bene-  
4 ficiaries to services; and

5 “(B) measures for determining the extent  
6 to which failures in obtaining services for bene-  
7 ficiaries fall within acceptable parameters, as  
8 determined by the Commissioner.

9 “(3) PRECLUSION FROM DIRECT PARTICIPA-  
10 TION IN DELIVERY OF SERVICES IN OWN SERVICE  
11 AREA.—Agreements under paragraph (1) shall  
12 preclude—

13 “(A) direct participation by a program  
14 manager in the delivery of employment services,  
15 vocational rehabilitation services, or other sup-  
16 port services to beneficiaries in the service area  
17 covered by the program manager’s agreement;  
18 and

19 “(B) the holding by a program manager of  
20 a financial interest in an employment network  
21 or service provider which provides services in a  
22 geographic area covered under the program  
23 manager’s agreement.

24 “(4) SELECTION OF EMPLOYMENT NET-  
25 WORKS.—

1           “(A) IN GENERAL.—The Commissioner  
2 shall select and enter into agreements with em-  
3 ployment networks for service under the Pro-  
4 gram. Such employment networks shall be in  
5 addition to State agencies serving as employ-  
6 ment networks pursuant to elections under sub-  
7 section (c).

8           “(B) ALTERNATE PARTICIPANTS.—In any  
9 State where the Program is being implemented,  
10 the Commissioner shall enter into an agreement  
11 with any alternate participant that is operating  
12 under the authority of section 222(d)(2) in the  
13 State as of the date of enactment of this section  
14 and chooses to serve as an employment network  
15 under the Program.

16           “(5) TERMINATION OF AGREEMENTS WITH EM-  
17 PLOYMENT NETWORKS.—The Commissioner shall  
18 terminate agreements with employment networks for  
19 inadequate performance, as determined by the Com-  
20 missioner.

21           “(6) QUALITY ASSURANCE.—The Commissioner  
22 shall provide for such periodic reviews as are nec-  
23 essary to provide for effective quality assurance in  
24 the provision of services by employment networks.  
25 The Commissioner shall solicit and consider the

1 views of consumers and the program manager under  
2 which the employment networks serve and shall con-  
3 sult with providers of services to develop perform-  
4 ance measurements. The Commissioner shall ensure  
5 that the results of the periodic reviews are made  
6 available to beneficiaries who are prospective service  
7 recipients as they select employment networks. The  
8 Commissioner shall ensure that the periodic surveys  
9 of beneficiaries receiving services under the Program  
10 are designed to measure customer service satisfac-  
11 tion.

12 “(7) DISPUTE RESOLUTION.—The Commis-  
13 sioner shall provide for a mechanism for resolving  
14 disputes between beneficiaries and employment net-  
15 works, between program managers and employment  
16 networks, and between program managers and pro-  
17 viders of services. The Commissioner shall afford a  
18 party to such a dispute a reasonable opportunity for  
19 a full and fair review of the matter in dispute.

20 “(e) PROGRAM MANAGERS.—

21 “(1) IN GENERAL.—A program manager shall  
22 conduct tasks appropriate to assist the Commis-  
23 sioner in carrying out the Commissioner’s duties in  
24 administering the Program.

1           “(2) RECRUITMENT OF EMPLOYMENT NET-  
2           WORKS.—A program manager shall recruit, and rec-  
3           ommend for selection by the Commissioner, employ-  
4           ment networks for service under the Program. The  
5           program manager shall carry out such recruitment  
6           and provide such recommendations, and shall mon-  
7           itor all employment networks serving in the Program  
8           in the geographic area covered under the program  
9           manager’s agreement, to the extent necessary and  
10          appropriate to ensure that adequate choices of serv-  
11          ices are made available to beneficiaries. Employment  
12          networks may serve under the Program only pursu-  
13          ant to an agreement entered into with the Commis-  
14          sioner under the Program incorporating the applica-  
15          ble provisions of this section and regulations there-  
16          under, and the program manager shall provide and  
17          maintain assurances to the Commissioner that pay-  
18          ment by the Commissioner to employment networks  
19          pursuant to this section is warranted based on com-  
20          pliance by such employment networks with the terms  
21          of such agreement and this section. The program  
22          manager shall not impose numerical limits on the  
23          number of employment networks to be recommended  
24          pursuant to this paragraph.

1           “(3) FACILITATION OF ACCESS BY BENE-  
2           FICIARIES TO EMPLOYMENT NETWORKS.—A pro-  
3           gram manager shall facilitate access by beneficiaries  
4           to employment networks. The program manager  
5           shall ensure that each beneficiary is allowed changes  
6           in employment networks without being deemed to  
7           have rejected services under the Program. When  
8           such a change occurs, the program manager shall re-  
9           assign the ticket based on the choice of the bene-  
10          ficiary. Upon the request of the employment net-  
11          work, the program manager shall make a determina-  
12          tion of the allocation of the outcome or milestone-  
13          outcome payments based on the services provided by  
14          each employment network. The program manager  
15          shall establish and maintain lists of employment net-  
16          works available to beneficiaries and shall make such  
17          lists generally available to the public. The program  
18          manager shall ensure that all information provided  
19          to disabled beneficiaries pursuant to this paragraph  
20          is provided in accessible formats.

21           “(4) ENSURING AVAILABILITY OF ADEQUATE  
22           SERVICES.—The program manager shall ensure that  
23           employment services, vocational rehabilitation serv-  
24           ices, and other support services are provided to  
25           beneficiaries throughout the geographic area covered

1 under the program manager's agreement, including  
2 rural areas.

3 “(5) REASONABLE ACCESS TO SERVICES.—The  
4 program manager shall take such measures as are  
5 necessary to ensure that sufficient employment net-  
6 works are available and that each beneficiary receiv-  
7 ing services under the Program has reasonable ac-  
8 cess to employment services, vocational rehabilitation  
9 services, and other support services. Services pro-  
10 vided under the Program may include case manage-  
11 ment, work incentives planning, supported employ-  
12 ment, career planning, career plan development, vo-  
13 cational assessment, job training, placement, follow-  
14 up services, and such other services as may be speci-  
15 fied by the Commissioner under the Program. The  
16 program manager shall ensure that such services are  
17 available in each service area.

18 “(f) EMPLOYMENT NETWORKS.—

19 “(1) QUALIFICATIONS FOR EMPLOYMENT NET-  
20 WORKS.—

21 “(A) IN GENERAL.—Each employment net-  
22 work serving under the Program shall consist of  
23 an agency or instrumentality of a State (or a  
24 political subdivision thereof) or a private entity,  
25 that assumes responsibility for the coordination



1 and delivery of services under the Program to  
2 individuals assigning to the employment net-  
3 work tickets to work and self-sufficiency issued  
4 under subsection (b).

5 “(B) ONE-STOP DELIVERY SYSTEMS.—An  
6 employment network serving under the Pro-  
7 gram may consist of a one-stop delivery system  
8 established under subtitle B of title I of the  
9 Workforce Investment Act of 1998.

10 “(C) COMPLIANCE WITH SELECTION CRI-  
11 TERIA.—No employment network may serve  
12 under the Program unless it meets and main-  
13 tains compliance with both general selection cri-  
14 teria (such as professional and educational  
15 qualifications, where applicable) and specific se-  
16 lection criteria (such as substantial expertise  
17 and experience in providing relevant employ-  
18 ment services and supports).

19 “(D) SINGLE OR ASSOCIATED PROVIDERS  
20 ALLOWED.—An employment network shall con-  
21 sist of either a single provider of such services  
22 or of an association of such providers organized  
23 so as to combine their resources into a single  
24 entity. An employment network may meet the  
25 requirements of subsection (e)(4) by providing

1 services directly, or by entering into agreements  
2 with other individuals or entities providing ap-  
3 propriate employment services, vocational reha-  
4 bilitation services, or other support services.

5 “(2) REQUIREMENTS RELATING TO PROVISION  
6 OF SERVICES.—Each employment network serving  
7 under the Program shall be required under the  
8 terms of its agreement with the Commissioner to—

9 “(A) serve prescribed service areas; and

10 “(B) take such measures as are necessary  
11 to ensure that employment services, vocational  
12 rehabilitation services, and other support serv-  
13 ices provided under the Program by, or under  
14 agreements entered into with, the employment  
15 network are provided under appropriate indi-  
16 vidual work plans meeting the requirements of  
17 subsection (g).

18 “(3) ANNUAL FINANCIAL REPORTING.—Each  
19 employment network shall meet financial reporting  
20 requirements as prescribed by the Commissioner.

21 “(4) PERIODIC OUTCOMES REPORTING.—Each  
22 employment network shall prepare periodic reports,  
23 on at least an annual basis, itemizing for the covered  
24 period specific outcomes achieved with respect to  
25 specific services provided by the employment net-

1 work. Such reports shall conform to a national  
2 model prescribed under this section. Each employ-  
3 ment network shall provide a copy of the latest re-  
4 port issued by the employment network pursuant to  
5 this paragraph to each beneficiary upon enrollment  
6 under the Program for services to be received  
7 through such employment network. Upon issuance of  
8 each report to each beneficiary, a copy of the report  
9 shall be maintained in the files of the employment  
10 network. The program manager shall ensure that  
11 copies of all such reports issued under this para-  
12 graph are made available to the public under reason-  
13 able terms.

14 “(g) INDIVIDUAL WORK PLANS.—

15 “(1) REQUIREMENTS.—Each employment net-  
16 work shall—

17 “(A) take such measures as are necessary  
18 to ensure that employment services, vocational  
19 rehabilitation services, and other support serv-  
20 ices provided under the Program by, or under  
21 agreements entered into with, the employment  
22 network are provided under appropriate indi-  
23 vidual work plans that meet the requirements of  
24 subparagraph (C);

1           “(B) develop and implement each such in-  
2           dividual work plan, in partnership with each  
3           beneficiary receiving such services, in a manner  
4           that affords such beneficiary the opportunity to  
5           exercise informed choice in selecting an employ-  
6           ment goal and specific services needed to  
7           achieve that employment goal;

8           “(C) ensure that each individual work plan  
9           includes at least—

10                   “(i) a statement of the vocational goal  
11                   developed with the beneficiary, including,  
12                   as appropriate, goals for earnings and job  
13                   advancement;

14                   “(ii) a statement of the services and  
15                   supports that have been deemed necessary  
16                   for the beneficiary to accomplish that goal;

17                   “(iii) a statement of any terms and  
18                   conditions related to the provision of such  
19                   services and supports; and

20                   “(iv) a statement of understanding re-  
21                   garding the beneficiary’s rights under the  
22                   Program (such as the right to retrieve the  
23                   ticket to work and self-sufficiency if the  
24                   beneficiary is dissatisfied with the services  
25                   being provided by the employment net-

1 work) and remedies available to the indi-  
2 vidual, including information on the avail-  
3 ability of advocacy services and assistance  
4 in resolving disputes through the State  
5 grant program authorized under section  
6 1150;

7 “(D) provide a beneficiary the opportunity  
8 to amend the individual work plan if a change  
9 in circumstances necessitates a change in the  
10 plan; and

11 “(E) make each beneficiary’s individual  
12 work plan available to the beneficiary in, as ap-  
13 propriate, an accessible format chosen by the  
14 beneficiary.

15 “(2) EFFECTIVE UPON WRITTEN APPROVAL.—  
16 A beneficiary’s individual work plan shall take effect  
17 upon written approval by the beneficiary or a rep-  
18 resentative of the beneficiary and a representative of  
19 the employment network that, in providing such  
20 written approval, acknowledges assignment of the  
21 beneficiary’s ticket to work and self-sufficiency.

22 “(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

23 “(1) ELECTION OF PAYMENT SYSTEM BY EM-  
24 PLOYMENT NETWORKS.—

1           “(A) IN GENERAL.—The Program shall  
2 provide for payment authorized by the Commis-  
3 sioner to employment networks under either an  
4 outcome payment system or an outcome-mile-  
5 stone payment system. Each employment net-  
6 work shall elect which payment system will be  
7 utilized by the employment network, and, for  
8 such period of time as such election remains in  
9 effect, the payment system so elected shall be  
10 utilized exclusively in connection with such em-  
11 ployment network (except as provided in sub-  
12 paragraph (B)).

13           “(B) NO CHANGE IN METHOD OF PAY-  
14 MENT FOR BENEFICIARIES WITH TICKETS AL-  
15 READY ASSIGNED TO THE EMPLOYMENT NET-  
16 WORKS.—Any election of a payment system by  
17 an employment network that would result in a  
18 change in the method of payment to the em-  
19 ployment network for services provided to a  
20 beneficiary who is receiving services from the  
21 employment network at the time of the election  
22 shall not be effective with respect to payment  
23 for services provided to that beneficiary and the  
24 method of payment previously selected shall  
25 continue to apply with respect to such services.

1           “(2) OUTCOME PAYMENT SYSTEM.—

2                   “(A) IN GENERAL.—The outcome payment  
3           system shall consist of a payment structure gov-  
4           erning employment networks electing such sys-  
5           tem under paragraph (1)(A) which meets the  
6           requirements of this paragraph.

7                   “(B) PAYMENTS MADE DURING OUTCOME  
8           PAYMENT PERIOD.—The outcome payment sys-  
9           tem shall provide for a schedule of payments to  
10          an employment network, in connection with  
11          each individual who is a beneficiary, for each  
12          month, during the individual’s outcome pay-  
13          ment period, for which benefits (described in  
14          paragraphs (3) and (4) of subsection (k)) are  
15          not payable to such individual because of work  
16          or earnings.

17                  “(C) COMPUTATION OF PAYMENTS TO EM-  
18          PLOYMENT NETWORK.—The payment schedule  
19          of the outcome payment system shall be de-  
20          signed so that—

21                          “(i) the payment for each month dur-  
22                          ing the outcome payment period for which  
23                          benefits (described in paragraphs (3) and  
24                          (4) of subsection (k)) are not payable is  
25                          equal to a fixed percentage of the payment

1 calculation base for the calendar year in  
2 which such month occurs; and

3 “(ii) such fixed percentage is set at a  
4 percentage which does not exceed 40 per-  
5 cent.

6 “(3) OUTCOME-MILESTONE PAYMENT SYS-  
7 TEM.—

8 “(A) IN GENERAL.—The outcome-mile-  
9 stone payment system shall consist of a pay-  
10 ment structure governing employment networks  
11 electing such system under paragraph (1)(A)  
12 which meets the requirements of this para-  
13 graph.

14 “(B) EARLY PAYMENTS UPON ATTAIN-  
15 MENT OF MILESTONES IN ADVANCE OF OUT-  
16 COME PAYMENT PERIODS.—The outcome-mile-  
17 stone payment system shall provide for 1 or  
18 more milestones, with respect to beneficiaries  
19 receiving services from an employment network  
20 under the Program, that are directed toward  
21 the goal of permanent employment. Such mile-  
22 stones shall form a part of a payment structure  
23 that provides, in addition to payments made  
24 during outcome payment periods, payments  
25 made prior to outcome payment periods in



1 amounts based on the attainment of such mile-  
2 stones.

3 “(C) LIMITATION ON TOTAL PAYMENTS TO  
4 EMPLOYMENT NETWORK.—The payment sched-  
5 ule of the outcome milestone payment system  
6 shall be designed so that the total of the pay-  
7 ments to the employment network with respect  
8 to each beneficiary is less than, on a net  
9 present value basis (using an interest rate de-  
10 termined by the Commissioner that appro-  
11 priately reflects the cost of funds faced by pro-  
12 viders), the total amount to which payments to  
13 the employment network with respect to the  
14 beneficiary would be limited if the employment  
15 network were paid under the outcome payment  
16 system.

17 “(4) DEFINITIONS.—In this subsection:

18 “(A) PAYMENT CALCULATION BASE.—The  
19 term ‘payment calculation base’ means, for any  
20 calendar year—

21 “(i) in connection with a title II dis-  
22 ability beneficiary, the average disability  
23 insurance benefit payable under section  
24 223 for all beneficiaries for months during  
25 the preceding calendar year; and

1           “(ii) in connection with a title XVI  
2           disability beneficiary (who is not concur-  
3           rently a title II disability beneficiary), the  
4           average payment of supplemental security  
5           income benefits based on disability payable  
6           under title XVI (excluding State sup-  
7           plementation) for months during the pre-  
8           ceding calendar year to all beneficiaries  
9           who have attained 18 years of age but  
10          have not attained 65 years of age.

11          “(B) OUTCOME PAYMENT PERIOD.—The  
12          term ‘outcome payment period’ means, in con-  
13          nection with any individual who had assigned a  
14          ticket to work and self-sufficiency to an employ-  
15          ment network under the Program, a period—

16               “(i) beginning with the first month,  
17               ending after the date on which such ticket  
18               was assigned to the employment network,  
19               for which benefits (described in paragraphs  
20               (3) and (4) of subsection (k)) are not pay-  
21               able to such individual by reason of en-  
22               gagement in substantial gainful activity or  
23               by reason of earnings from work activity;  
24               and

1           “(ii) ending with the 60th month  
2           (consecutive or otherwise), ending after  
3           such date, for which such benefits are not  
4           payable to such individual by reason of en-  
5           gagement in substantial gainful activity or  
6           by reason of earnings from work activity.

7           “(5) PERIODIC REVIEW AND ALTERATIONS OF  
8           PRESCRIBED SCHEDULES.—

9           “(A) PERCENTAGES AND PERIODS.—The  
10           Commissioner shall periodically review the per-  
11           centage specified in paragraph (2)(C), the total  
12           payments permissible under paragraph (3)(C),  
13           and the period of time specified in paragraph  
14           (4)(B) to determine whether such percentages,  
15           such permissible payments, and such period  
16           provide an adequate incentive for employment  
17           networks to assist beneficiaries to enter the  
18           workforce, while providing for appropriate  
19           economies. The Commissioner may alter such  
20           percentage, such total permissible payments, or  
21           such period of time to the extent that the Com-  
22           missioner determines, on the basis of the Com-  
23           missioner’s review under this paragraph, that  
24           such an alteration would better provide the in-

1           centive and economies described in the pre-  
2           ceding sentence.

3           “(B) NUMBER AND AMOUNT OF MILE-  
4           STONE PAYMENTS.—The Commissioner shall  
5           periodically review the number and amounts of  
6           milestone payments established by the Commis-  
7           sioner pursuant to this section to determine  
8           whether they provide an adequate incentive for  
9           employment networks to assist beneficiaries to  
10          enter the workforce, taking into account infor-  
11          mation provided to the Commissioner by pro-  
12          gram managers, the Ticket to Work and Work  
13          Incentives Advisory Panel established by section  
14          101(f) of the Ticket to Work and Work Incen-  
15          tives Improvement Act of 1999, and other reli-  
16          able sources. The Commissioner may from time  
17          to time alter the number and amounts of mile-  
18          stone payments initially established by the  
19          Commissioner pursuant to this section to the  
20          extent that the Commissioner determines that  
21          such an alteration would allow an adequate in-  
22          centive for employment networks to assist bene-  
23          ficiaries to enter the workforce. Such alteration  
24          shall be based on information provided to the  
25          Commissioner by program managers, the Ticket

1 to Work and Work Incentives Advisory Panel  
2 established by section 101(f) of the Ticket to  
3 Work and Work Incentives Improvement Act of  
4 1999, or other reliable sources.

5 “(C) REPORT ON THE ADEQUACY OF IN-  
6 CENTIVES.—The Commissioner shall submit to  
7 Congress not later than 36 months after the  
8 date of the enactment of the Ticket to Work  
9 and Work Incentives Improvement Act of 1999  
10 a report with recommendations for a method or  
11 methods to adjust payment rates under sub-  
12 paragraphs (A) and (B), that would ensure ade-  
13 quate incentives for the provision of services by  
14 employment networks of—

15 “(i) individuals with a need for ongoing  
16 support and services;

17 “(ii) individuals with a need for high-  
18 cost accommodations;

19 “(iii) individuals who earn a submin-  
20 imum wage; and

21 “(iv) individuals who work and receive  
22 partial cash benefits.

23 The Commissioner shall consult with the Ticket  
24 to Work and Work Incentives Advisory Panel  
25 established under section 101(f) of the Ticket

1 to Work and Work Incentives Improvement Act  
2 of 1999 during the development and evaluation  
3 of the study. The Commissioner shall imple-  
4 ment the necessary adjusted payment rates  
5 prior to full implementation of the Ticket to  
6 Work and Self-Sufficiency Program.

7 “(i) SUSPENSION OF DISABILITY REVIEWS.—During  
8 any period for which an individual is using, as defined by  
9 the Commissioner, a ticket to work and self-sufficiency  
10 issued under this section, the Commissioner (and any ap-  
11 plicable State agency) may not initiate a continuing dis-  
12 ability review or other review under section 221 of whether  
13 the individual is or is not under a disability or a review  
14 under title XVI similar to any such review under section  
15 221.

16 “(j) AUTHORIZATIONS.—

17 “(1) PAYMENTS TO EMPLOYMENT NET-  
18 WORKS.—

19 “(A) TITLE II DISABILITY BENE-  
20 FICIARIES.—There are authorized to be trans-  
21 ferred from the Federal Old-Age and Survivors  
22 Insurance Trust Fund and the Federal Dis-  
23 ability Insurance Trust Fund each fiscal year  
24 such sums as may be necessary to make pay-  
25 ments to employment networks under this sec-

1           tion. Money paid from the Trust Funds under  
2           this section with respect to title II disability  
3           beneficiaries who are entitled to benefits under  
4           section 223 or who are entitled to benefits  
5           under section 202(d) on the basis of the wages  
6           and self-employment income of such bene-  
7           ficiaries, shall be charged to the Federal Dis-  
8           ability Insurance Trust Fund, and all other  
9           money paid from the Trust Funds under this  
10          section shall be charged to the Federal Old-Age  
11          and Survivors Insurance Trust Fund.

12                 “(B) TITLE XVI DISABILITY BENE-  
13           FIICIARIES.—Amounts authorized to be appro-  
14           priated to the Social Security Administration  
15           under section 1601 (as in effect pursuant to the  
16           amendments made by section 301 of the Social  
17           Security Amendments of 1972) shall include  
18           amounts necessary to carry out the provisions  
19           of this section with respect to title XVI dis-  
20           ability beneficiaries.

21                 “(2) ADMINISTRATIVE EXPENSES.—The costs  
22           of administering this section (other than payments  
23           to employment networks) shall be paid from  
24           amounts made available for the administration of  
25           title II and amounts made available for the adminis-

1       tration of title XVI, and shall be allocated among  
2       such amounts as appropriate.

3       “(k) DEFINITIONS.—In this section:

4             “(1) COMMISSIONER.—The term ‘Commis-  
5       sioner’ means the Commissioner of Social Security.

6             “(2) DISABLED BENEFICIARY.—The term ‘dis-  
7       abled beneficiary’ means a title II disability bene-  
8       ficiary or a title XVI disability beneficiary.

9             “(3) TITLE II DISABILITY BENEFICIARY.—The  
10       term ‘title II disability beneficiary’ means an indi-  
11       vidual entitled to disability insurance benefits under  
12       section 223 or to monthly insurance benefits under  
13       section 202 based on such individual’s disability (as  
14       defined in section 223(d)). An individual is a title II  
15       disability beneficiary for each month for which such  
16       individual is entitled to such benefits.

17            “(4) TITLE XVI DISABILITY BENEFICIARY.—  
18       The term ‘title XVI disability beneficiary’ means an  
19       individual eligible for supplemental security income  
20       benefits under title XVI on the basis of blindness  
21       (within the meaning of section 1614(a)(2)) or dis-  
22       ability (within the meaning of section 1614(a)(3)).  
23       An individual is a title XVI disability beneficiary for  
24       each month for which such individual is eligible for  
25       such benefits.



1           “(5) SUPPLEMENTAL SECURITY INCOME BEN-  
2           EFIT.—The term ‘supplemental security income ben-  
3           efit under title XVI’ means a cash benefit under sec-  
4           tion 1611 or 1619(a), and does not include a State  
5           supplementary payment, administered federally or  
6           otherwise.

7           “(1) REGULATIONS.—Not later than 1 year after the  
8           date of the enactment of the Ticket to Work and Work  
9           Incentives Improvement Act of 1999, the Commissioner  
10          shall prescribe such regulations as are necessary to carry  
11          out the provisions of this section.”.

12          (b) CONFORMING AMENDMENTS.—

13                 (1) AMENDMENTS TO TITLE II.—

14                         (A) Section 221(i) of the Social Security  
15                         Act (42 U.S.C. 421(i)) is amended by adding at  
16                         the end the following:

17                         “(5) For suspension of reviews under this subsection  
18                         in the case of an individual using a ticket to work and  
19                         self-sufficiency, see section 1148(i).”.

20                         (B) Section 222(a) of such Act (42 U.S.C.  
21                         422(a)) is repealed.

22                         (C) Section 222(b) of such Act (42 U.S.C.  
23                         422(b)) is repealed.

24                         (D) Section 225(b)(1) of such Act (42  
25                         U.S.C. 425(b)(1)) is amended by striking “a

1 program of vocational rehabilitation services”  
2 and inserting “a program consisting of the  
3 Ticket to Work and Self-Sufficiency Program  
4 under section 1148 or another program of voca-  
5 tional rehabilitation services, employment serv-  
6 ices, or other support services”.

7 (2) AMENDMENTS TO TITLE XVI.—

8 (A) Section 1615(a) of such Act (42  
9 U.S.C. 1382d(a)) is amended to read as follows:

10 “SEC. 1615. (a) In the case of any blind or disabled  
11 individual who—

12 “(1) has not attained age 16; and

13 “(2) with respect to whom benefits are paid  
14 under this title,

15 the Commissioner of Social Security shall make provision  
16 for referral of such individual to the appropriate State  
17 agency administering the State program under title V.”.

18 (B) Section 1615(c) of such Act (42  
19 U.S.C. 1382d(c)) is repealed.

20 (C) Section 1631(a)(6)(A) of such Act (42  
21 U.S.C. 1383(a)(6)(A)) is amended by striking  
22 “a program of vocational rehabilitation serv-  
23 ices” and inserting “a program consisting of  
24 the Ticket to Work and Self-Sufficiency Pro-  
25 gram under section 1148 or another program of

1            vocational rehabilitation services, employment  
2            services, or other support services”.

3            (D) Section 1633(c) of such Act (42  
4            U.S.C. 1383b(c)) is amended—

5                    (i) by inserting “(1)” after “(c)”; and

6                    (ii) by adding at the end the fol-

7                    lowing:

8            “(2) For suspension of continuing disability reviews  
9            and other reviews under this title similar to reviews under  
10           section 221 in the case of an individual using a ticket to  
11           work and self-sufficiency, see section 1148(i).”.

12           (c) EFFECTIVE DATE.—Subject to subsection (d),  
13           the amendments made by subsections (a) and (b) shall  
14           take effect with the first month following 1 year after the  
15           date of the enactment of this Act.

16           (d) GRADUATED IMPLEMENTATION OF PROGRAM.—

17                    (1) IN GENERAL.—Not later than 1 year after  
18           the date of the enactment of this Act, the Commis-  
19           sioner of Social Security shall commence implemen-  
20           tation of the amendments made by this section  
21           (other than paragraphs (1)(C) and (2)(B) of sub-  
22           section (b)) in graduated phases at phase-in sites se-  
23           lected by the Commissioner. Such phase-in sites  
24           shall be selected so as to ensure, prior to full imple-  
25           mentation of the Ticket to Work and Self-Suffi-

1       ciency Program, the development and refinement of  
2       referral processes, payment systems, computer link-  
3       ages, management information systems, and admin-  
4       istrative processes necessary to provide for full im-  
5       plementation of such amendments. Subsection (c)  
6       shall apply with respect to paragraphs (1)(C) and  
7       (2)(B) of subsection (b) without regard to this sub-  
8       section.

9               (2) REQUIREMENTS.—Implementation of the  
10       Program at each phase-in site shall be carried out  
11       on a wide enough scale to permit a thorough evalua-  
12       tion of the alternative methods under consideration,  
13       so as to ensure that the most efficacious methods  
14       are determined and in place for full implementation  
15       of the Program on a timely basis.

16              (3) FULL IMPLEMENTATION.—The Commis-  
17       sioner shall ensure that ability to provide tickets and  
18       services to individuals under the Program exists in  
19       every State as soon as practicable on or after the ef-  
20       fective date specified in subsection (c) but not later  
21       than 3 years after such date.

22              (4) ONGOING EVALUATION OF PROGRAM.—

23                   (A) IN GENERAL.—The Commissioner  
24       shall design and conduct a series of evaluations  
25       to assess the cost-effectiveness of activities car-

1           ried out under this section and the amendments  
2           made thereby, as well as the effects of this sec-  
3           tion and the amendments made thereby on  
4           work outcomes for beneficiaries receiving tickets  
5           to work and self-sufficiency under the Program.

6           (B) CONSULTATION.—The Commissioner  
7           shall design and carry out the series of evalua-  
8           tions after receiving relevant advice from ex-  
9           perts in the fields of disability, vocational reha-  
10          bilitation, and program evaluation and individ-  
11          uals using tickets to work and self-sufficiency  
12          under the Program and consulting with the  
13          Ticket to Work and Work Incentives Advisory  
14          Panel established under section 101(f), the  
15          Comptroller General of the United States, other  
16          agencies of the Federal Government, and pri-  
17          vate organizations with appropriate expertise.

18          (C) METHODOLOGY.—

19               (i) IMPLEMENTATION.—The Commis-  
20               sioner, in consultation with the Ticket to  
21               Work and Work Incentives Advisory Panel  
22               established under section 101(f), shall en-  
23               sure that plans for evaluations and data  
24               collection methods under the Program are

1 appropriately designed to obtain detailed  
2 employment information.

3 (ii) SPECIFIC MATTERS TO BE AD-  
4 DRESSED.—Each such evaluation shall ad-  
5 dress (but is not limited to)—

6 (I) the annual cost (including net  
7 cost) of the Program and the annual  
8 cost (including net cost) that would  
9 have been incurred in the absence of  
10 the Program;

11 (II) the determinants of return to  
12 work, including the characteristics of  
13 beneficiaries in receipt of tickets  
14 under the Program;

15 (III) the types of employment  
16 services, vocational rehabilitation serv-  
17 ices, and other support services fur-  
18 nished to beneficiaries in receipt of  
19 tickets under the Program who return  
20 to work and to those who do not re-  
21 turn to work;

22 (IV) the duration of employment  
23 services, vocational rehabilitation serv-  
24 ices, and other support services fur-  
25 nished to beneficiaries in receipt of

1 tickets under the Program who return  
2 to work and the duration of such serv-  
3 ices furnished to those who do not re-  
4 turn to work and the cost to employ-  
5 ment networks of furnishing such  
6 services;

7 (V) the employment outcomes,  
8 including wages, occupations, benefits,  
9 and hours worked, of beneficiaries  
10 who return to work after receiving  
11 tickets under the Program and those  
12 who return to work without receiving  
13 such tickets;

14 (VI) the characteristics of indi-  
15 viduals in possession of tickets under  
16 the Program who are not accepted for  
17 services and, to the extent reasonably  
18 determinable, the reasons for which  
19 such beneficiaries were not accepted  
20 for services;

21 (VII) the characteristics of pro-  
22 viders whose services are provided  
23 within an employment network under  
24 the Program;

1 (VIII) the extent (if any) to  
2 which employment networks display a  
3 greater willingness to provide services  
4 to beneficiaries with a range of dis-  
5 abilities;

6 (IX) the characteristics (includ-  
7 ing employment outcomes) of those  
8 beneficiaries who receive services  
9 under the outcome payment system  
10 and of those beneficiaries who receive  
11 services under the outcome-milestone  
12 payment system;

13 (X) measures of satisfaction  
14 among beneficiaries in receipt of tick-  
15 ets under the Program; and

16 (XI) reasons for (including com-  
17 ments solicited from beneficiaries re-  
18 garding) their choice not to use their  
19 tickets or their inability to return to  
20 work despite the use of their tickets.

21 (D) PERIODIC EVALUATION REPORTS.—  
22 Following the close of the third and fifth fiscal  
23 years ending after the effective date under sub-  
24 section (c), and prior to the close of the seventh  
25 fiscal year ending after such date, the Commis-



1           sioner shall transmit to the Committee on Ways  
2           and Means of the House of Representatives and  
3           the Committee on Finance of the Senate a re-  
4           port containing the Commissioner's evaluation  
5           of the progress of activities conducted under the  
6           provisions of this section and the amendments  
7           made thereby. Each such report shall set forth  
8           the Commissioner's evaluation of the extent to  
9           which the Program has been successful and the  
10          Commissioner's conclusions on whether or how  
11          the Program should be modified. Each such re-  
12          port shall include such data, findings, materials,  
13          and recommendations as the Commissioner may  
14          consider appropriate.

15           (5) EXTENT OF STATE'S RIGHT OF FIRST RE-  
16          FUSAL IN ADVANCE OF FULL IMPLEMENTATION OF  
17          AMENDMENTS IN SUCH STATE.—

18           (A) IN GENERAL.—In the case of any  
19          State in which the amendments made by sub-  
20          section (a) have not been fully implemented  
21          pursuant to this subsection, the Commissioner  
22          shall determine by regulation the extent to  
23          which—

1 (i) the requirement under section  
2 222(a) for prompt referrals to a State  
3 agency; and

4 (ii) the authority of the Commissioner  
5 under section 222(d)(2) of the Social Secu-  
6 rity Act to provide vocational rehabilitation  
7 services in such State by agreement or  
8 contract with other public or private agen-  
9 cies, organizations, institutions, or individ-  
10 uals,  
11 shall apply in such State.

12 (B) EXISTING AGREEMENTS.—Nothing in  
13 subparagraph (A) or the amendments made by  
14 subsection (a) shall be construed to limit, im-  
15 pede, or otherwise affect any agreement entered  
16 into pursuant to section 222(d)(2) of the Social  
17 Security Act before the date of the enactment  
18 of this Act with respect to services provided  
19 pursuant to such agreement to beneficiaries re-  
20 ceiving services under such agreement as of  
21 such date, except with respect to services (if  
22 any) to be provided after 3 years after the ef-  
23 fective date provided in subsection (c).

24 (e) SPECIFIC REGULATIONS REQUIRED.—

1           (1) IN GENERAL.—The Commissioner of Social  
2 Security shall prescribe such regulations as are nec-  
3 essary to implement the amendments made by this  
4 section.

5           (2) SPECIFIC MATTERS TO BE INCLUDED IN  
6 REGULATIONS.—The matters which shall be ad-  
7 dressed in such regulations shall include—

8                   (A) the form and manner in which tickets  
9 to work and self-sufficiency may be distributed  
10 to beneficiaries pursuant to section 1148(b)(1)  
11 of the Social Security Act;

12                   (B) the format and wording of such tick-  
13 ets, which shall incorporate by reference any  
14 contractual terms governing service by employ-  
15 ment networks under the Program;

16                   (C) the form and manner in which State  
17 agencies may elect participation in the Ticket to  
18 Work and Self-Sufficiency Program pursuant to  
19 section 1148(e)(1) of such Act and provision for  
20 periodic opportunities for exercising such elec-  
21 tions;

22                   (D) the status of State agencies under sec-  
23 tion 1148(e)(1) of such Act at the time that  
24 State agencies exercise elections under that sec-  
25 tion;

1 (E) the terms of agreements to be entered  
2 into with program managers pursuant to sec-  
3 tion 1148(d) of such Act, including—

4 (i) the terms by which program man-  
5 agers are precluded from direct participa-  
6 tion in the delivery of services pursuant to  
7 section 1148(d)(3) of such Act;

8 (ii) standards which must be met by  
9 quality assurance measures referred to in  
10 paragraph (6) of section 1148(d) of such  
11 Act and methods of recruitment of employ-  
12 ment networks utilized pursuant to para-  
13 graph (2) of section 1148(e) of such Act;  
14 and

15 (iii) the format under which dispute  
16 resolution will operate under section  
17 1148(d)(7) of such Act;

18 (F) the terms of agreements to be entered  
19 into with employment networks pursuant to sec-  
20 tion 1148(d)(4) of such Act, including—

21 (i) the manner in which service areas  
22 are specified pursuant to section  
23 1148(f)(2)(A) of such Act;

24 (ii) the general selection criteria and  
25 the specific selection criteria which are ap-

1 plicable to employment networks under  
2 section 1148(f)(1)(C) of such Act in select-  
3 ing service providers;

4 (iii) specific requirements relating to  
5 annual financial reporting by employment  
6 networks pursuant to section 1148(f)(3) of  
7 such Act; and

8 (iv) the national model to which peri-  
9 odic outcomes reporting by employment  
10 networks must conform under section  
11 1148(f)(4) of such Act;

12 (G) standards which must be met by indi-  
13 vidual work plans pursuant to section 1148(g)  
14 of such Act;

15 (H) standards which must be met by pay-  
16 ment systems required under section 1148(h) of  
17 such Act, including—

18 (i) the form and manner in which  
19 elections by employment networks of pay-  
20 ment systems are to be exercised pursuant  
21 to section 1148(h)(1)(A) of such Act;

22 (ii) the terms which must be met by  
23 an outcome payment system under section  
24 1148(h)(2) of such Act;

1 (iii) the terms which must be met by  
2 an outcome-milestone payment system  
3 under section 1148(h)(3) of such Act;

4 (iv) any revision of the percentage  
5 specified in paragraph (2)(C) of section  
6 1148(h) of such Act or the period of time  
7 specified in paragraph (4)(B) of such sec-  
8 tion 1148(h) of such Act; and

9 (v) annual oversight procedures for  
10 such systems; and

11 (I) procedures for effective oversight of the  
12 Program by the Commissioner of Social Secu-  
13 rity, including periodic reviews and reporting  
14 requirements.

15 (f) THE TICKET TO WORK AND WORK INCENTIVES  
16 ADVISORY PANEL.—

17 (1) ESTABLISHMENT.—There is established  
18 within the Social Security Administration a panel to  
19 be known as the “Ticket to Work and Work Incen-  
20 tives Advisory Panel” (in this subsection referred to  
21 as the “Panel”).

22 (2) DUTIES OF PANEL.—It shall be the duty of  
23 the Panel to—

24 (A) advise the President, the Congress,  
25 and the Commissioner of Social Security on

1 issues related to work incentives programs,  
2 planning, and assistance for individuals with  
3 disabilities, including work incentive provisions  
4 under titles II, XI, XVI, XVIII, and XIX of the  
5 Social Security Act (42 U.S.C. 401 et seq.,  
6 1301 et seq., 1381 et seq., 1395 et seq., 1396  
7 et seq.); and

8 (B) with respect to the Ticket to Work and  
9 Self-Sufficiency Program established under sec-  
10 tion 1148 of such Act—

11 (i) advise the Commissioner of Social  
12 Security with respect to establishing phase-  
13 in sites for such Program and fully imple-  
14 menting the Program thereafter, the re-  
15 finement of access of disabled beneficiaries  
16 to employment networks, payment systems,  
17 and management information systems, and  
18 advise the Commissioner whether such  
19 measures are being taken to the extent  
20 necessary to ensure the success of the Pro-  
21 gram;

22 (ii) advise the Commissioner regard-  
23 ing the most effective designs for research  
24 and demonstration projects associated with

1 the Program or conducted pursuant to sec-  
2 tion 302 of this Act;

3 (iii) advise the Commissioner on the  
4 development of performance measurements  
5 relating to quality assurance under section  
6 1148(d)(6) of the Social Security Act; and

7 (iv) furnish progress reports on the  
8 Program to the Commissioner and each  
9 House of Congress.

10 (3) MEMBERSHIP.—

11 (A) NUMBER AND APPOINTMENT.—The  
12 Panel shall be composed of 12 members as fol-  
13 lows:

14 (i) 4 members appointed by the Presi-  
15 dent, not more than 2 of whom may be of  
16 the same political party;

17 (ii) 2 members appointed by the  
18 Speaker of the House of Representatives,  
19 in consultation with the Chairman of the  
20 Committee on Ways and Means of the  
21 House of Representatives;

22 (iii) 2 members appointed by the mi-  
23 nority leader of the House of Representa-  
24 tives, in consultation with the ranking



1 member of the Committee on Ways and  
2 Means of the House of Representatives;

3 (iv) 2 members appointed by the ma-  
4 jority leader of the Senate, in consultation  
5 with the Chairman of the Committee on  
6 Finance of the Senate; and

7 (v) 2 members appointed by the mi-  
8 nority leader of the Senate, in consultation  
9 with the ranking member of the Committee  
10 on Finance of the Senate.

11 (B) REPRESENTATION.—Of the members  
12 appointed under subparagraph (A), at least 8  
13 shall have experience or expert knowledge as a  
14 recipient, provider, employer, or employee in the  
15 fields of, or related to, employment services, vo-  
16 cational rehabilitation services, and other sup-  
17 port services, of whom—

18 (i) at least 2 shall represent the inter-  
19 ests of recipients of employment services,  
20 vocational rehabilitation services, and other  
21 support services;

22 (ii) at least 2 shall represent the in-  
23 terests of providers of employment serv-  
24 ices, vocational rehabilitation services, and  
25 other support services;

1 (iii) at least 2 shall represent the in-  
2 terests of private employers; and

3 (iv) at least 2 shall represent the in-  
4 terests of employees.

5 At least  $\frac{1}{2}$  of the members described in each  
6 clause of subparagraph (A) shall be individuals  
7 with disabilities, or representatives of individ-  
8 uals with disabilities, with consideration to cur-  
9 rent or former title II disability beneficiaries or  
10 title XVI disability beneficiaries (as such terms  
11 are defined in section 1148(k) of the Social Se-  
12 curity Act (as added by subsection (a))).

13 (C) TERMS.—

14 (i) IN GENERAL.—Each member shall  
15 be appointed for a term of 4 years (or, if  
16 less, for the remaining life of the Panel),  
17 except as provided in clauses (ii) and (iii).

18 The initial members shall be appointed not  
19 later than 90 days after the date of the en-  
20 actment of this Act.

21 (ii) TERMS OF INITIAL AP-  
22 POINTEES.—As designated by the Presi-  
23 dent at the time of appointment, of the  
24 members first appointed—

1 (I) 1/2 of the members appointed  
2 under subparagraph (A) shall be ap-  
3 pointed for a term of 2 years; and

4 (II) the remaining members ap-  
5 pointed under subparagraph (A) shall  
6 be appointed for a term of 4 years.

7 (iii) VACANCIES.—Any member ap-  
8 pointed to fill a vacancy occurring before  
9 the expiration of the term for which the  
10 member's predecessor was appointed shall  
11 be appointed only for the remainder of that  
12 term. A member may serve after the expi-  
13 ration of that member's term until a suc-  
14 cesssor has taken office. A vacancy in the  
15 Panel shall be filled in the manner in  
16 which the original appointment was made.

17 (D) BASIC PAY.—Members shall each be  
18 paid at a rate, and in a manner, that is con-  
19 sistent with guidelines established under section  
20 7 of the Federal Advisory Committee Act (5  
21 U.S.C. App.).

22 (E) TRAVEL EXPENSES.—Each member  
23 shall receive travel expenses, including per diem  
24 in lieu of subsistence, in accordance with sec-

1           tions 5702 and 5703 of title 5, United States  
2           Code.

3           (F) QUORUM.—8 members of the Panel  
4           shall constitute a quorum but a lesser number  
5           may hold hearings.

6           (G) CHAIRPERSON.—The Chairperson of  
7           the Panel shall be designated by the President.  
8           The term of office of the Chairperson shall be  
9           4 years.

10          (H) MEETINGS.—The Panel shall meet at  
11          least quarterly and at other times at the call of  
12          the Chairperson or a majority of its members.

13          (4) DIRECTOR AND STAFF OF PANEL; EXPERTS  
14          AND CONSULTANTS.—

15          (A) DIRECTOR.—The Panel shall have a  
16          Director who shall be appointed by the Panel,  
17          and paid at a rate, and in a manner, that is  
18          consistent with guidelines established under sec-  
19          tion 7 of the Federal ADvisory Committee Act  
20          (5 U.S.C. App.).

21          (B) STAFF.—Subject to rules prescribed  
22          by the Commissioner of Social Security, the Di-  
23          rector may appoint and fix the pay of additional  
24          personnel as the Director considers appropriate.

1           (C) EXPERTS AND CONSULTANTS.—Sub-  
2           ject to rules prescribed by the Commissioner of  
3           Social Security, the Director may procure tem-  
4           porary and intermittent services under section  
5           3109(b) of title 5, United States Code.

6           (D) STAFF OF FEDERAL AGENCIES.—  
7           Upon request of the Panel, the head of any  
8           Federal department or agency may detail, on a  
9           reimbursable basis, any of the personnel of that  
10          department or agency to the Panel to assist it  
11          in carrying out its duties under this Act.

12          (5) POWERS OF PANEL.—

13           (A) HEARINGS AND SESSIONS.—The Panel  
14           may, for the purpose of carrying out its duties  
15           under this subsection, hold such hearings, sit  
16           and act at such times and places, and take such  
17           testimony and evidence as the Panel considers  
18           appropriate.

19           (B) POWERS OF MEMBERS AND AGENTS.—  
20           Any member or agent of the Panel may, if au-  
21           thorized by the Panel, take any action which  
22           the Panel is authorized to take by this section.

23           (C) MAILS.—The Panel may use the  
24           United States mails in the same manner and

1 under the same conditions as other departments  
2 and agencies of the United States.

3 (6) REPORTS.—

4 (A) INTERIM REPORTS.—The Panel shall  
5 submit to the President and the Congress in-  
6 terim reports at least annually.

7 (B) FINAL REPORT.—The Panel shall  
8 transmit a final report to the President and the  
9 Congress not later than eight years after the  
10 date of the enactment of this Act. The final re-  
11 port shall contain a detailed statement of the  
12 findings and conclusions of the Panel, together  
13 with its recommendations for legislation and ad-  
14 ministrative actions which the Panel considers  
15 appropriate.

16 (7) TERMINATION.—The Panel shall terminate  
17 30 days after the date of the submission of its final  
18 report under paragraph (6)(B).

19 (8) AUTHORIZATION OF APPROPRIATIONS.—  
20 There are authorized to be appropriated from the  
21 Federal Old-Age and Survivors Insurance Trust  
22 Fund, the Federal Disability Insurance Trust Fund,  
23 and the general fund of the Treasury, as appro-  
24 priate, such sums as are necessary to carry out this  
25 subsection.

1     **Subtitle B—Elimination of Work**  
2                     **Disincentives**

3     **SEC. 111. WORK ACTIVITY STANDARD AS A BASIS FOR RE-**  
4                     **VIEW OF AN INDIVIDUAL'S DISABLED STATUS.**

5         (a) **IN GENERAL.**—Section 221 of the Social Security  
6 Act (42 U.S.C. 421) is amended by adding at the end the  
7 following:

8             “(m)(1) In any case where an individual entitled to  
9 disability insurance benefits under section 223 or to  
10 monthly insurance benefits under section 202 based on  
11 such individual's disability (as defined in section 223(d))  
12 has received such benefits for at least 24 months—

13             “(A) no continuing disability review conducted  
14 by the Commissioner may be scheduled for the indi-  
15 vidual solely as a result of the individual's work ac-  
16 tivity;

17             “(B) no work activity engaged in by the indi-  
18 vidual may be used as evidence that the individual  
19 is no longer disabled; and

20             “(C) no cessation of work activity by the indi-  
21 vidual may give rise to a presumption that the indi-  
22 vidual is unable to engage in work.

23             “(2) An individual to which paragraph (1) applies  
24 shall continue to be subject to—

1           “(A) continuing disability reviews on a regularly  
2           scheduled basis that is not triggered by work; and

3           “(B) termination of benefits under this title in  
4           the event that the individual has earnings that ex-  
5           ceed the level of earnings established by the Com-  
6           missioner to represent substantial gainful activity.”.

7           (b) **EFFECTIVE DATE.**—The amendment made by  
8           subsection (a) shall take effect on January 1, 2003.

9           **SEC. 112. EXPEDITED REINSTATEMENT OF DISABILITY**  
10           **BENEFITS.**

11           (a) **OASDI BENEFITS.**—Section 223 of the Social  
12           Security Act (42 U.S.C. 423) is amended—

13                   (1) by redesignating subsection (i) as subsection  
14                   (j); and

15                   (2) by inserting after subsection (h) the fol-  
16                   lowing:

17                                 “Reinstatement of Entitlement

18                   “(i)(1)(A) Entitlement to benefits described in sub-  
19                   paragraph (B)(i)(I) shall be reinstated in any case where  
20                   the Commissioner determines that an individual described  
21                   in subparagraph (B) has filed a request for reinstatement  
22                   meeting the requirements of paragraph (2)(A) during the  
23                   period prescribed in subparagraph (C). Reinstatement of  
24                   such entitlement shall be in accordance with the terms of  
25                   this subsection.



1       “(B) An individual is described in this subparagraph  
2 if—

3               “(i) prior to the month in which the individual  
4 files a request for reinstatement—

5                       “(I) the individual was entitled to benefits  
6 under this section or section 202 on the basis  
7 of disability pursuant to an application filed  
8 therefor; and

9                       “(II) such entitlement terminated due to  
10 the performance of substantial gainful activity;

11               “(ii) the individual is under a disability and the  
12 physical or mental impairment that is the basis for  
13 the finding of disability is the same as (or related  
14 to) the physical or mental impairment that was the  
15 basis for the finding of disability that gave rise to  
16 the entitlement described in clause (i); and

17                       “(iii) the individual’s disability renders the indi-  
18 vidual unable to perform substantial gainful activity.

19       “(C)(i) Except as provided in clause (ii), the period  
20 prescribed in this subparagraph with respect to an indi-  
21 vidual is 60 consecutive months beginning with the month  
22 following the most recent month for which the individual  
23 was entitled to a benefit described in subparagraph  
24 (B)(i)(I) prior to the entitlement termination described in  
25 subparagraph (B)(i)(II).

1       “(ii) In the case of an individual who fails to file a  
2 reinstatement request within the period prescribed in  
3 clause (i), the Commissioner may extend the period if the  
4 Commissioner determines that the individual had good  
5 cause for the failure to so file.

6       “(2)(A)(i) A request for reinstatement shall be filed  
7 in such form, and containing such information, as the  
8 Commissioner may prescribe.

9       “(ii) A request for reinstatement shall include express  
10 declarations by the individual that the individual meets the  
11 requirements specified in clauses (ii) and (iii) of para-  
12 graph (1)(B).

13       “(B) A request for reinstatement filed in accordance  
14 with subparagraph (A) may constitute an application for  
15 benefits in the case of any individual who the Commis-  
16 sioner determines is not entitled to reinstated benefits  
17 under this subsection.

18       “(3) In determining whether an individual meets the  
19 requirements of paragraph (1)(B)(ii), the provisions of  
20 subsection (f) shall apply.

21       “(4)(A)(i) Subject to clause (ii), entitlement to bene-  
22 fits reinstated under this subsection shall commence with  
23 the benefit payable for the month in which a request for  
24 reinstatement is filed.

1       “(ii) An individual whose entitlement to a benefit for  
2 any month would have been reinstated under this sub-  
3 section had the individual filed a request for reinstatement  
4 before the end of such month shall be entitled to such ben-  
5 efit for such month if such request for reinstatement is  
6 filed before the end of the twelfth month immediately suc-  
7 ceeding such month.

8       “(B)(i) Subject to clauses (ii) and (iii), the amount  
9 of the benefit payable for any month pursuant to the rein-  
10 statement of entitlement under this subsection shall be de-  
11 termined in accordance with the provisions of this title.

12       “(ii) For purposes of computing the primary insur-  
13 ance amount of an individual whose entitlement to benefits  
14 under this section is reinstated under this subsection, the  
15 date of onset of the individual’s disability shall be the date  
16 of onset used in determining the individual’s most recent  
17 period of disability arising in connection with such benefits  
18 payable on the basis of an application.

19       “(iii) Benefits under this section or section 202 pay-  
20 able for any month pursuant to a request for reinstatement  
21 filed in accordance with paragraph (2) shall be re-  
22 duced by the amount of any provisional benefit paid to  
23 such individual for such month under paragraph (7).

24       “(C) No benefit shall be payable pursuant to an enti-  
25 tlement reinstated under this subsection to an individual

1 for any month in which the individual engages in substan-  
2 tial gainful activity.

3 “(D) The entitlement of any individual that is rein-  
4 stated under this subsection shall end with the benefits  
5 payable for the month preceding whichever of the following  
6 months is the earliest:

7 “(i) The month in which the individual dies.

8 “(ii) The month in which the individual attains  
9 retirement age.

10 “(iii) The third month following the month in  
11 which the individual’s disability ceases.

12 “(5) Whenever an individual’s entitlement to benefits  
13 under this section is reinstated under this subsection, enti-  
14 tlement to benefits payable on the basis of such individ-  
15 ual’s wages and self-employment income may be reinstated  
16 with respect to any person previously entitled to such ben-  
17 efits on the basis of an application if the Commissioner  
18 determines that such person satisfies all the requirements  
19 for entitlement to such benefits except requirements re-  
20 lated to the filing of an application. The provisions of  
21 paragraph (4) shall apply to the reinstated entitlement of  
22 any such person to the same extent that they apply to  
23 the reinstated entitlement of such individual.

24 “(6) An individual to whom benefits are payable  
25 under this section or section 202 pursuant to a reinstatement

1 ment of entitlement under this subsection for 24 months  
2 (whether or not consecutive) shall, with respect to benefits  
3 so payable after such twenty-fourth month, be deemed for  
4 purposes of paragraph (1)(B)(i)(I) and the determination,  
5 if appropriate, of the termination month in accordance  
6 with subsection (a)(1) of this section, or subsection (d)(1),  
7 (e)(1), or (f)(1) of section 202, to be entitled to such bene-  
8 fits on the basis of an application filed therefor.

9       “(7)(A) An individual described in paragraph (1)(B)  
10 who files a request for reinstatement in accordance with  
11 the provisions of paragraph (2)(A) shall be entitled to pro-  
12 visional benefits payable in accordance with this para-  
13 graph, unless the Commissioner determines that the indi-  
14 vidual does not meet the requirements of paragraph  
15 (1)(B)(i) or that the individual’s declaration under para-  
16 graph (2)(A)(ii) is false. Any such determination by the  
17 Commissioner shall be final and not subject to review  
18 under subsection (b) or (g) of section 205.

19       “(B) The amount of a provisional benefit for a month  
20 shall equal the amount of the last monthly benefit payable  
21 to the individual under this title on the basis of an applica-  
22 tion increased by an amount equal to the amount, if any,  
23 by which such last monthly benefit would have been in-  
24 creased as a result of the operation of section 215(i).

1       “(C)(i) Provisional benefits shall begin with the  
2 month in which a request for reinstatement is filed in ac-  
3 cordance with paragraph (2)(A).

4       “(ii) Provisional benefits shall end with the earliest  
5 of—

6           “(I) the month in which the Commissioner  
7 makes a determination regarding the individual’s en-  
8 titlement to reinstated benefits;

9           “(II) the fifth month following the month de-  
10 scribed in clause (i);

11           “(III) the month in which the individual per-  
12 forms substantial gainful activity; or

13           “(IV) the month in which the Commissioner de-  
14 termines that the individual does not meet the re-  
15 quirements of paragraph (1)(B)(i) or that the indi-  
16 vidual’s declaration made in accordance with para-  
17 graph (2)(A)(ii) is false.

18       “(D) In any case in which the Commissioner deter-  
19 mines that an individual is not entitled to reinstated bene-  
20 fits, any provisional benefits paid to the individual under  
21 this paragraph shall not be subject to recovery as an over-  
22 payment unless the Commissioner determines that the in-  
23 dividual knew or should have known that the individual  
24 did not meet the requirements of paragraph (1)(B).”.

25       (b) SSI BENEFITS.—



1           “(ii) the individual is blind or disabled and the  
2           physical or mental impairment that is the basis for  
3           the finding of blindness or disability is the same as  
4           (or related to) the physical or mental impairment  
5           that was the basis for the finding of blindness or  
6           disability that gave rise to the eligibility described in  
7           clause (i);

8           “(iii) the individual’s blindness or disability ren-  
9           ders the individual unable to perform substantial  
10          gainful activity; and

11          “(iv) the individual satisfies the nonmedical re-  
12          quirements for eligibility for benefits under this title.

13          “(C)(i) Except as provided in clause (ii), the period  
14          prescribed in this subparagraph with respect to an indi-  
15          vidual is 60 consecutive months beginning with the month  
16          following the most recent month for which the individual  
17          was eligible for a benefit under this title (including section  
18          1619) prior to the period of ineligibility described in sub-  
19          paragraph (B)(i)(II).

20          “(ii) In the case of an individual who fails to file a  
21          reinstatement request within the period prescribed in  
22          clause (i), the Commissioner may extend the period if the  
23          Commissioner determines that the individual had good  
24          cause for the failure to so file.



1       “(2)(A)(i) A request for reinstatement shall be filed  
2 in such form, and containing such information, as the  
3 Commissioner may prescribe.

4       “(ii) A request for reinstatement shall include express  
5 declarations by the individual that the individual meets the  
6 requirements specified in clauses (ii) through (iv) of para-  
7 graph (1)(B).

8       “(B) A request for reinstatement filed in accordance  
9 with subparagraph (A) may constitute an application for  
10 benefits in the case of any individual who the Commis-  
11 sioner determines is not eligible for reinstated benefits  
12 under this subsection.

13       “(3) In determining whether an individual meets the  
14 requirements of paragraph (1)(B)(ii), the provisions of  
15 section 1614(a)(4) shall apply.

16       “(4)(A) Eligibility for benefits reinstated under this  
17 subsection shall commence with the benefit payable for the  
18 month following the month in which a request for rein-  
19 statement is filed.

20       “(B)(i) Subject to clause (ii), the amount of the ben-  
21 efit payable for any month pursuant to the reinstatement  
22 of eligibility under this subsection shall be determined in  
23 accordance with the provisions of this title.

24       “(ii) The benefit under this title payable for any  
25 month pursuant to a request for reinstatement filed in ac-

1 cordance with paragraph (2) shall be reduced by the  
2 amount of any provisional benefit paid to such individual  
3 for such month under paragraph (7).

4 “(C) Except as otherwise provided in this subsection,  
5 eligibility for benefits under this title reinstated pursuant  
6 to a request filed under paragraph (2) shall be subject  
7 to the same terms and conditions as eligibility established  
8 pursuant to an application filed therefor.

9 “(5) Whenever an individual’s eligibility for benefits  
10 under this title is reinstated under this subsection, eligi-  
11 bility for such benefits shall be reinstated with respect to  
12 the individual’s spouse if such spouse was previously an  
13 eligible spouse of the individual under this title and the  
14 Commissioner determines that such spouse satisfies all the  
15 requirements for eligibility for such benefits except re-  
16 quirements related to the filing of an application. The pro-  
17 visions of paragraph (4) shall apply to the reinstated eligi-  
18 bility of the spouse to the same extent that they apply  
19 to the reinstated eligibility of such individual.

20 “(6) An individual to whom benefits are payable  
21 under this title pursuant to a reinstatement of eligibility  
22 under this subsection for twenty-four months (whether or  
23 not consecutive) shall, with respect to benefits so payable  
24 after such twenty-fourth month, be deemed for purposes

1 of paragraph (1)(B)(i)(I) to be eligible for such benefits  
2 on the basis of an application filed therefor.

3       “(7)(A) An individual described in paragraph (1)(B)  
4 who files a request for reinstatement in accordance with  
5 the provisions of paragraph (2)(A) shall be eligible for pro-  
6 visional benefits payable in accordance with this para-  
7 graph, unless the Commissioner determines that the indi-  
8 vidual does not meet the requirements of paragraph  
9 (1)(B)(i) or that the individual’s declaration under para-  
10 graph (2)(A)(ii) is false. Any such determination by the  
11 Commissioner shall be final and not subject to review  
12 under paragraph (1) or (3) of subsection (c).

13       “(B)(i) Except as otherwise provided in clause (ii),  
14 the amount of a provisional benefit for a month shall equal  
15 the amount of the monthly benefit that would be payable  
16 to an eligible individual under this title with the same kind  
17 and amount of income.

18       “(ii) If the individual has a spouse who was pre-  
19 viously an eligible spouse of the individual under this title  
20 and the Commissioner determines that such spouse satis-  
21 fies all the requirements of section 1614(b) except require-  
22 ments related to the filing of an application, the amount  
23 of a provisional benefit for a month shall equal the amount  
24 of the monthly benefit that would be payable to an eligible

1 individual and eligible spouse under this title with the  
2 same kind and amount of income.

3 “(C)(i) Provisional benefits shall begin with the  
4 month following the month in which a request for rein-  
5 statement is filed in accordance with paragraph (2)(A).

6 “(ii) Provisional benefits shall end with the earliest  
7 of—

8 “(I) the month in which the Commissioner  
9 makes a determination regarding the individual’s eli-  
10 gibility for reinstated benefits;

11 “(II) the fifth month following the month for  
12 which provisional benefits are first payable under  
13 clause (i); or

14 “(III) the month in which the Commissioner de-  
15 termines that the individual does not meet the re-  
16 quirements of paragraph (1)(B)(i) or that the indi-  
17 vidual’s declaration made in accordance with para-  
18 graph (2)(A)(ii) is false.

19 “(D) In any case in which the Commissioner deter-  
20 mines that an individual is not eligible for reinstated bene-  
21 fits, any provisional benefits paid to the individual under  
22 this paragraph shall not be subject to recovery as an over-  
23 payment unless the Commissioner determines that the in-  
24 dividual knew or should have known that the individual  
25 did not meet the requirements of paragraph (1)(B).

1       “(8) For purposes of this subsection other than para-  
2 graph (7), the term ‘benefits under this title’ includes  
3 State supplementary payments made pursuant to an  
4 agreement under section 1616(a) of this Act or section  
5 212(b) of Public Law 93–66.”.

6           (2) CONFORMING AMENDMENTS.—

7           (A) Section 1631(j)(1) of such Act (42  
8 U.S.C. 1383(j)(1)) is amended by striking the  
9 period and inserting “, or has filed a request  
10 for reinstatement of eligibility under subsection  
11 (p)(2) and been determined to be eligible for re-  
12 instatement.”.

13           (B) Section 1631(j)(2)(A)(i)(I) of such Act  
14 (42 U.S.C. 1383(j)(2)(A)(i)(I)) is amended by  
15 inserting “(other than pursuant to a request for  
16 reinstatement under subsection (p))” after “eli-  
17 gible”.

18           (c) EFFECTIVE DATE.—

19           (1) IN GENERAL.—The amendments made by  
20 this section shall take effect on the first day of the  
21 thirteenth month beginning after the date of enact-  
22 ment of this Act.

23           (2) LIMITATION.—No benefit shall be payable  
24 under title II or XVI on the basis of a request for  
25 reinstatement filed under section 223(i) or 1631(p)

1 of the Social Security Act before the effective date  
2 described in paragraph (1).

3 **Subtitle C—Work Incentives**  
4 **Planning, Assistance, and Outreach**

5 **SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.**

6 Part A of title XI of the Social Security Act (42  
7 U.S.C. 1301 et seq.), as amended by section 101, is  
8 amended by adding after section 1148 the following:

9 “WORK INCENTIVES OUTREACH PROGRAM

10 “SEC. 1149. (a) ESTABLISHMENT.—

11 “(1) IN GENERAL.—The Commissioner, in con-  
12 sultation with the Ticket to Work and Work Incen-  
13 tives Advisory Panel established under section 101(f)  
14 of the Ticket to Work and Work Incentives Improve-  
15 ment Act of 1999, shall establish a community-based  
16 work incentives planning and assistance program for  
17 the purpose of disseminating accurate information to  
18 disabled beneficiaries on work incentives programs  
19 and issues related to such programs.

20 “(2) GRANTS, COOPERATIVE AGREEMENTS,  
21 CONTRACTS, AND OUTREACH.—Under the program  
22 established under this section, the Commissioner  
23 shall—

24 “(A) establish a competitive program of  
25 grants, cooperative agreements, or contracts to  
26 provide benefits planning and assistance, in-

1 including information on the availability of pro-  
2 tection and advocacy services, to disabled bene-  
3 ficiaries, including individuals participating in  
4 the Ticket to Work and Self-Sufficiency Pro-  
5 gram established under section 1148, the pro-  
6 gram established under section 1619, and other  
7 programs that are designed to encourage dis-  
8 abled beneficiaries to work;

9 “(B) conduct directly, or through grants,  
10 cooperative agreements, or contracts, ongoing  
11 outreach efforts to disabled beneficiaries (and  
12 to the families of such beneficiaries) who are  
13 potentially eligible to participate in Federal or  
14 State work incentive programs that are de-  
15 signed to assist disabled beneficiaries to work,  
16 including—

17 “(i) preparing and disseminating in-  
18 formation explaining such programs; and

19 “(ii) working in cooperation with  
20 other Federal, State, and private agencies  
21 and nonprofit organizations that serve dis-  
22 abled beneficiaries, and with agencies and  
23 organizations that focus on vocational re-  
24 habilitation and work-related training and  
25 counseling;

1           “(C) establish a corps of trained, acces-  
2           sible, and responsive work incentives specialists  
3           within the Social Security Administration who  
4           will specialize in disability work incentives  
5           under titles II and XVI for the purpose of dis-  
6           seminating accurate information with respect to  
7           inquiries and issues relating to work incentives  
8           to—

9                     “(i) disabled beneficiaries;

10                    “(ii) benefit applicants under titles II  
11                    and XVI; and

12                    “(iii) individuals or entities awarded  
13                    grants under subparagraphs (A) or (B);  
14                    and

15                    “(D) provide—

16                    “(i) training for work incentives spe-  
17                    cialists and individuals providing planning  
18                    assistance described in subparagraph (C);  
19                    and

20                    “(ii) technical assistance to organiza-  
21                    tions and entities that are designed to en-  
22                    courage disabled beneficiaries to return to  
23                    work.

24                    “(3) COORDINATION WITH OTHER PRO-  
25                    GRAMS.—The responsibilities of the Commissioner



1 established under this section shall be coordinated  
2 with other public and private programs that provide  
3 information and assistance regarding rehabilitation  
4 services and independent living supports and bene-  
5 fits planning for disabled beneficiaries including the  
6 program under section 1619, the plans for achieving  
7 self-support program (PASS), and any other Federal  
8 or State work incentives programs that are designed  
9 to assist disabled beneficiaries, including educational  
10 agencies that provide information and assistance re-  
11 garding rehabilitation, school-to-work programs,  
12 transition services (as defined in, and provided in ac-  
13 cordance with, the Individuals with Disabilities Edu-  
14 cation Act (20 U.S.C. 1400 et seq.)), a one-stop de-  
15 livery system established under subtitle B of title I  
16 of the Workforce Investment Act of 1998, and other  
17 services.

18 “(b) CONDITIONS.—

19 “(1) SELECTION OF ENTITIES.—

20 “(A) APPLICATION.—An entity shall sub-  
21 mit an application for a grant, cooperative  
22 agreement, or contract to provide benefits plan-  
23 ning and assistance to the Commissioner at  
24 such time, in such manner, and containing such  
25 information as the Commissioner may deter-

1 mine is necessary to meet the requirements of  
2 this section.

3 “(B) STATEWIDENESS.—The Commis-  
4 sioner shall ensure that the planning, assist-  
5 ance, and information described in paragraph  
6 (2) shall be available on a statewide basis.

7 “(C) ELIGIBILITY OF STATES AND PRI-  
8 VATE ORGANIZATIONS.—

9 “(i) IN GENERAL.—The Commissioner  
10 may award a grant, cooperative agreement,  
11 or contract under this section to a State or  
12 a private agency or organization (other  
13 than Social Security Administration Field  
14 Offices and the State agency administering  
15 the State medicaid program under title  
16 XIX, including any agency or entity de-  
17 scribed in clause (ii), that the Commis-  
18 sioner determines is qualified to provide  
19 the planning, assistance, and information  
20 described in paragraph (2)).

21 “(ii) AGENCIES AND ENTITIES DE-  
22 SCRIBED.—The agencies and entities de-  
23 scribed in this clause are the following:

24 “(I) Any public or private agency  
25 or organization (including Centers for

1 Independent Living established under  
2 title VII of the Rehabilitation Act of  
3 1973, protection and advocacy organi-  
4 zations, client assistance programs es-  
5 tablished in accordance with section  
6 112 of the Rehabilitation Act of 1973,  
7 and State Developmental Disabilities  
8 Councils established in accordance  
9 with section 124 of the Developmental  
10 Disabilities Assistance and Bill of  
11 Rights Act (42 U.S.C. 6024)) that the  
12 Commissioner determines satisfies the  
13 requirements of this section.

14 “(II) The State agency admin-  
15 istering the State program funded  
16 under part A of title IV.

17 “(D) EXCLUSION FOR CONFLICT OF IN-  
18 TEREST.—The Commissioner may not award a  
19 grant, cooperative agreement, or contract under  
20 this section to any entity that the Commissioner  
21 determines would have a conflict of interest if  
22 the entity were to receive a grant, cooperative  
23 agreement, or contract under this section.

24 “(2) SERVICES PROVIDED.—A recipient of a  
25 grant, cooperative agreement, or contract to provide

1 benefits planning and assistance shall select individ-  
2 uals who will act as planners and provide informa-  
3 tion, guidance, and planning to disabled beneficiaries  
4 on the—

5 “(A) availability and interrelation of any  
6 Federal or State work incentives programs de-  
7 signed to assist disabled beneficiaries that the  
8 individual may be eligible to participate in;

9 “(B) adequacy of any health benefits cov-  
10 erage that may be offered by an employer of  
11 the individual and the extent to which other  
12 health benefits coverage may be available to the  
13 individual; and

14 “(C) availability of protection and advo-  
15 cacy services for disabled beneficiaries and how  
16 to access such services.

17 “(3) AMOUNT OF GRANTS, COOPERATIVE  
18 AGREEMENTS, OR CONTRACTS.—

19 “(A) BASED ON POPULATION OF DIS-  
20 ABLED BENEFICIARIES.—Subject to subpara-  
21 graph (B), the Commissioner shall award a  
22 grant, cooperative agreement, or contract under  
23 this section to an entity based on the percent-  
24 age of the population of the State where the en-  
25 tity is located who are disabled beneficiaries.

1           “(B) LIMITATIONS.—

2           “(i) PER GRANT.—No entity shall re-  
3           ceive a grant, cooperative agreement, or  
4           contract under this section for a fiscal year  
5           that is less than \$50,000 or more than  
6           \$300,000.

7           “(ii) TOTAL AMOUNT FOR ALL  
8           GRANTS, COOPERATIVE AGREEMENTS, AND  
9           CONTRACTS.—The total amount of all  
10          grants, cooperative agreements, and con-  
11          tracts awarded under this section for a fis-  
12          cal year may not exceed \$23,000,000.

13          “(4) ALLOCATION OF COSTS.—The costs of car-  
14          rying out this section shall be paid from amounts  
15          made available for the administration of title II and  
16          amounts made available for the administration of  
17          title XVI, and shall be allocated among those  
18          amounts as appropriate.

19          “(c) DEFINITIONS.—In this section:

20                 “(1) COMMISSIONER.—The term ‘Commis-  
21                 sioner’ means the Commissioner of Social Security.

22                 “(2) DISABLED BENEFICIARY.—The term ‘dis-  
23                 abled beneficiary’ has the meaning given that term  
24                 in section 1148(k)(2).



1       “(c) APPLICATION.—In order to receive payments  
2 under this section, a protection and advocacy system shall  
3 submit an application to the Commissioner, at such time,  
4 in such form and manner, and accompanied by such infor-  
5 mation and assurances as the Commissioner may require.

6       “(d) AMOUNT OF PAYMENTS.—

7           “(1) IN GENERAL.—Subject to the amount ap-  
8 propriated for a fiscal year for making payments  
9 under this section, a protection and advocacy system  
10 shall not be paid an amount that is less than—

11           “(A) in the case of a protection and advo-  
12 cacy system located in a State (including the  
13 District of Columbia and Puerto Rico) other  
14 than Guam, American Samoa, the United  
15 States Virgin Islands, and the Commonwealth  
16 of the Northern Mariana Islands, the greater  
17 of—

18           “(i) \$100,000; or

19           “(ii)  $\frac{1}{3}$  of 1 percent of the amount  
20 available for payments under this section;  
21 and

22           “(B) in the case of a protection and advo-  
23 cacy system located in Guam, American Samoa,  
24 the United States Virgin Islands, and the Com-

1 monwealth of the Northern Mariana Islands,  
2 \$50,000.

3 “(2) INFLATION ADJUSTMENT.—For each fiscal  
4 year in which the total amount appropriated to carry  
5 out this section exceeds the total amount appro-  
6 priated to carry out this section in the preceding fis-  
7 cal year, the Commissioner shall increase each min-  
8 imum payment under subparagraphs (A) and (B) of  
9 paragraph (1) by a percentage equal to the percent-  
10 age increase in the total amount so appropriated to  
11 carry out this section.

12 “(e) ANNUAL REPORT.—Each protection and advo-  
13 cacy system that receives a payment under this section  
14 shall submit an annual report to the Commissioner and  
15 the Ticket to Work and Work Incentives Advisory Panel  
16 established under section 101(f) of the Ticket to Work and  
17 Work Incentives Improvement Act of 1999 on the services  
18 provided to individuals by the system.

19 “(f) FUNDING.—

20 “(1) ALLOCATION OF PAYMENTS.—Payments  
21 under this section shall be made from amounts made  
22 available for the administration of title II and  
23 amounts made available for the administration of  
24 title XVI, and shall be allocated among those  
25 amounts as appropriate.



1           “(2) CARRYOVER.—Any amounts allotted for  
2 payment to a protection and advocacy system under  
3 this section for a fiscal year shall remain available  
4 for payment to or on behalf of the protection and  
5 advocacy system until the end of the succeeding fis-  
6 cal year.

7           “(g) DEFINITIONS.—In this section:

8           “(1) COMMISSIONER.—The term ‘Commis-  
9 sioner’ means the Commissioner of Social Security.

10           “(2) DISABLED BENEFICIARY.—The term ‘dis-  
11 abled beneficiary’ has the meaning given that term  
12 in section 1148(k)(2).

13           “(3) PROTECTION AND ADVOCACY SYSTEM.—  
14 The term ‘protection and advocacy system’ means a  
15 protection and advocacy system established pursuant  
16 to part C of title I of the Developmental Disabilities  
17 Assistance and Bill of Rights Act (42 U.S.C. 6041  
18 et seq.).

19           “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
20 is authorized to be appropriated to carry out this section  
21 \$7,000,000 for each of the fiscal years 2000 through  
22 2004.”.

1 **TITLE II—EXPANDED AVAIL-**  
2 **ABILITY OF HEALTH CARE**  
3 **SERVICES**

4 **SEC. 201. EXPANDING STATE OPTIONS UNDER THE MED-**  
5 **ICAID PROGRAM FOR WORKERS WITH DIS-**  
6 **ABILITIES.**

7 (a) IN GENERAL.—

8 (1) STATE OPTION TO ELIMINATE INCOME, AS-  
9 SETS, AND RESOURCE LIMITATIONS FOR WORKERS  
10 WITH DISABILITIES BUYING INTO MEDICAID.—Sec-  
11 tion 1902(a)(10)(A)(ii) of the Social Security Act  
12 (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

13 (A) in subclause (XIII), by striking “or”  
14 at the end;

15 (B) in subclause (XIV), by adding “or” at  
16 the end; and

17 (C) by adding at the end the following:

18 “(XV) who, but for earnings in  
19 excess of the limit established under  
20 section 1905(q)(2)(B), would be con-  
21 sidered to be receiving supplemental  
22 security income, who is at least 16,  
23 but less than 65, years of age, and  
24 whose assets, resources, and earned or  
25 unearned income (or both) do not ex-

1                   ceed such limitations (if any) as the  
2                   State may establish;”.

3                   (2) STATE OPTION TO PROVIDE OPPORTUNITY  
4                   FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY  
5                   IMPROVED DISABILITY TO BUY INTO MEDICAID.—

6                   (A)                   ELIGIBILITY.—Section  
7                   1902(a)(10)(A)(ii) of the Social Security Act  
8                   (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by  
9                   paragraph (1), is amended—

10                   (i) in subclause (XIV), by striking  
11                   “or” at the end;

12                   (ii) in subclause (XV), by adding “or”  
13                   at the end; and

14                   (iii) by adding at the end the fol-  
15                   lowing:

16                   “(XVI) who are employed indi-  
17                   viduals with a medically improved dis-  
18                   ability described in section 1905(v)(1)  
19                   and whose assets, resources, and  
20                   earned or unearned income (or both)  
21                   do not exceed such limitations (if any)  
22                   as the State may establish, but only if  
23                   the State provides medical assistance  
24                   to individuals described in subclause  
25                   (XV);”.

1 (B) DEFINITION OF EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following:

6 “(v)(1) The term ‘employed individual with a medically improved disability’ means an individual who—

8 “(A) is at least 16, but less than 65, years of age;

10 “(B) is employed (as defined in paragraph (2));

11 “(C) ceases to be eligible for medical assistance under section 1902(a)(10)(A)(ii)(XV) because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits under section 223(d) or 1614(a)(3); and

17 “(D) continues to have a severe medically determinable impairment, as determined under regulations of the Secretary.

20 “(2) For purposes of paragraph (1), an individual is considered to be ‘employed’ if the individual—

22 “(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 24 40 hours per month; or

1           “(B) is engaged in a work effort that meets  
2 substantial and reasonable threshold criteria for  
3 hours of work, wages, or other measures, as defined  
4 by the State and approved by the Secretary.”.

5           (C) CONFORMING AMENDMENT.—Section  
6 1905(a) of such Act (42 U.S.C. 1396d(a)) is  
7 amended in the matter preceding paragraph  
8 (1)—

9           (i) in clause (x), by striking “or” at  
10 the end;

11           (ii) in clause (xi), by adding “or” at  
12 the end; and

13           (iii) by inserting after clause (xi), the  
14 following:

15           “(xii) employed individuals with a medically im-  
16 proved disability (as defined in subsection (v)),”.

17           (3) STATE AUTHORITY TO IMPOSE INCOME-RE-  
18 LATED PREMIUMS AND COST-SHARING.—Section  
19 1916 of such Act (42 U.S.C. 1396o) is amended—

20           (A) in subsection (a), by striking “The  
21 State plan” and inserting “Subject to sub-  
22 section (g), the State plan”; and

23           (B) by adding at the end the following:

1       “(g) With respect to individuals provided medical as-  
2       sistance only under subclause (XV) or (XVI) of section  
3       1902(a)(10)(A)(ii)—

4               “(1) a State may (in a uniform manner for in-  
5       dividuals described in either such subclause)—

6                       “(A) require such individuals to pay pre-  
7       miums or other cost-sharing charges set on a  
8       sliding scale based on income that the State  
9       may determine; and

10                      “(B) require payment of 100 percent of  
11       such premiums or charges for a year in the case  
12       of such an individual who has income for such  
13       year that exceeds 250 percent of the income of-  
14       ficial poverty line (referred to in subsection  
15       (c)(1)) applicable to a family of the size in-  
16       volved, except that, in the case of such an indi-  
17       vidual who has income for a year that does not  
18       exceed 450 percent of such poverty line, such  
19       requirement may apply only to the extent that  
20       such premiums do not exceed 7.5 percent of  
21       such income; and

22                      “(2) a State shall require payment of 100 per-  
23       cent of such premium for a year by such an indi-  
24       vidual whose adjusted gross income (as defined in  
25       section 62 of the Internal Revenue Code of 1986)

1 for such year exceeds \$75,000, except that a State  
2 may choose to subsidize such premium by using  
3 State funds which may not be federally matched  
4 under this title.

5 The Secretary shall adjust annually (after 2000) the dollar  
6 amount set forth in paragraph (2) under procedures pro-  
7 viding for adjustments in the same manner and to the  
8 same extent as adjustments are provided for under the  
9 procedures used to adjust benefit amounts under section  
10 215(i)(2)(A), except that any amount so adjusted that is  
11 not a multiple of \$1.00 shall be rounded to the nearest  
12 multiple of \$1.00.”

13 (4) PROHIBITION AGAINST SUPPLANTATION OF  
14 STATE FUNDS AND STATE FAILURE TO MAINTAIN  
15 EFFORT.—Section 1903(i) of such Act (42 U.S.C.  
16 1396b(i)) is amended—

17 (A) by striking the period at the end of  
18 paragraph (18) and inserting “; or”; and

19 (B) by inserting after such paragraph the  
20 following:

21 “(19) with respect to amounts expended for  
22 medical assistance provided to an individual de-  
23 scribed in subclause (XV) or (XVI) of section  
24 1902(a)(10)(A)(ii) for a fiscal year unless the State  
25 demonstrates to the satisfaction of the Secretary

1 that the level of State funds expended for such fiscal  
2 year for programs to enable working individuals with  
3 disabilities to work (other than for such medical as-  
4 sistance) is not less than the level expended for such  
5 programs during the most recent State fiscal year  
6 ending before the date of enactment of this para-  
7 graph.”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) Section 1903(f)(4) of the Social Security  
10 Act (42 U.S.C. 1396b(f)(4)) is amended in the mat-  
11 ter preceding subparagraph (A) by inserting  
12 “1902(a)(10)(A)(ii)(XV), 1902(a)(10)(A)(ii)(XVI)”  
13 after “1902(a)(10)(A)(ii)(X),”.

14 (2) Section 1903(f)(4) of such Act, as amended  
15 by paragraph (1), is amended by inserting  
16 “1902(a)(10)(A)(ii)(XIII),” before  
17 “1902(a)(10)(A)(ii)(XV)”.

18 (c) GAO REPORT.—Not later than 3 years after the  
19 date of enactment of this Act, the Comptroller General  
20 of the United States shall submit a report to Congress  
21 regarding the amendments made by this section that  
22 examines—

23 (1) the extent to which higher health care costs  
24 for individuals with disabilities at higher income lev-  
25 els deter employment or progress with employment;



1           (2) whether such individuals have health insur-  
2           ance coverage or could benefit from the State option  
3           established under such amendments to provide a  
4           medicaid buy-in; and

5           (3) how the States are exercising such option,  
6           including—

7                   (A) how such States are exercising the  
8                   flexibility afforded them with regard to income  
9                   disregards;

10                   (B) what income and premium levels have  
11                   been set;

12                   (C) the degree to which States are sub-  
13                   sidizing premiums above the dollar amount  
14                   specified in section 1916(g)(2) of the Social Se-  
15                   curity Act (42 U.S.C. 1396o(g)(2)); and

16                   (D) the extent to which there exists any  
17                   crowd-out effect.

18           (d) EFFECTIVE DATE.—

19                   (1) IN GENERAL.—Except as provided in para-  
20                   graph (2), the amendments made by this section  
21                   apply to medical assistance for items and services  
22                   furnished on or after October 1, 1999.

23                   (2) RETROACTIVITY OF CONFORMING AMEND-  
24                   MENT.—The amendment made by subsection (b)(2)

1 takes effect as if included in the enactment of the  
2 Balanced Budget Act of 1997.

3 **SEC. 202. EXTENDING MEDICARE COVERAGE FOR OASDI**  
4 **DISABILITY BENEFIT RECIPIENTS.**

5 (a) **IN GENERAL.**—The next to last sentence of sec-  
6 tion 226(b) of the Social Security Act (42 U.S.C. 426)  
7 is amended by striking “24” and inserting “96”.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 subsection (a) shall be effective on and after October 1,  
10 2000.

11 (c) **GAO REPORT.**—Not later than 5 years after the  
12 date of the enactment of this Act, the Comptroller General  
13 of the United States shall submit a report to the Congress  
14 that—

15 (1) examines the effectiveness and cost of the  
16 amendment made by subsection (a);

17 (2) examines the necessity and effectiveness of  
18 providing continuation of medicare coverage under  
19 section 226(b) of the Social Security Act to individ-  
20 uals whose annual income exceeds the contribution  
21 and benefit base (as determined under section 230  
22 of such Act);

23 (3) examines the viability of providing the con-  
24 tinuation of medicare coverage under such section  
25 226(b) based on a sliding scale premium for individ-

1 uals whose annual income exceeds such contribution  
2 and benefit base;

3 (4) examines the viability of providing the con-  
4 tinuation of medicare coverage under such section  
5 226(b) based on a premium buy-in by the bene-  
6 ficiary's employer in lieu of coverage under private  
7 health insurance;

8 (5) examines the interrelation between the use  
9 of the continuation of medicare coverage under such  
10 section 226(b) and the use of private health insur-  
11 ance coverage by individuals during the extended pe-  
12 riod; and

13 (6) recommends such legislative or administra-  
14 tive changes relating to the continuation of medicare  
15 coverage for recipients of social security disability  
16 benefits as the Comptroller General determines are  
17 appropriate.

18 **SEC. 203. GRANTS TO DEVELOP AND ESTABLISH STATE IN-**  
19 **FRASTRUCTURES TO SUPPORT WORKING IN-**  
20 **DIVIDUALS WITH DISABILITIES.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—The Secretary of Health and  
23 Human Services (in this section referred to as the  
24 “Secretary”) shall award grants described in sub-  
25 section (b) to States to support the design, establish-

1 ment, and operation of State infrastructures that  
2 provide items and services to support working indi-  
3 viduals with disabilities.

4 (2) APPLICATION.—In order to be eligible for  
5 an award of a grant under this section, a State shall  
6 submit an application to the Secretary at such time,  
7 in such manner, and containing such information as  
8 the Secretary shall require.

9 (3) DEFINITION OF STATE.—In this section,  
10 the term “State” means each of the 50 States, the  
11 District of Columbia, Puerto Rico, Guam, the  
12 United States Virgin Islands, American Samoa, and  
13 the Commonwealth of the Northern Mariana Is-  
14 lands.

15 (b) GRANTS FOR INFRASTRUCTURE AND OUT-  
16 REACH.—

17 (1) IN GENERAL.—Out of the funds appro-  
18 priated under subsection (e), the Secretary shall  
19 award grants to States to—

20 (A) support the establishment, implemen-  
21 tation, and operation of the State infrastruc-  
22 tures described in subsection (a); and

23 (B) conduct outreach campaigns regarding  
24 the existence of such infrastructures.

25 (2) ELIGIBILITY FOR GRANTS.—

1 (A) IN GENERAL.—No State may receive a  
2 grant under this subsection unless the State—

3 (i) has an approved amendment to the  
4 State plan under title XIX of the Social  
5 Security Act (42 U.S.C. 1396 et seq.) that  
6 provides medical assistance under such  
7 plan to individuals described in section  
8 1902(a)(10)(A)(ii)(XV) of the Social Secu-  
9 rity Act (42 U.S.C.  
10 1396a(a)(10)(A)(ii)(XV)); and

11 (ii) demonstrates to the satisfaction of  
12 the Secretary that the State makes per-  
13 sonal assistance services available under  
14 the State plan under title XIX of the So-  
15 cial Security Act (42 U.S.C. 1396 et seq.)  
16 to the extent necessary to enable individ-  
17 uals described in clause (i) to remain em-  
18 ployed (as determined under section  
19 1905(v)(2) of the Social Security Act (42  
20 U.S.C. 1396d(v)(2)).

21 (B) DEFINITION OF PERSONAL ASSIST-  
22 ANCE SERVICES.—In this paragraph, the term  
23 “personal assistance services” means a range of  
24 services, provided by 1 or more persons, de-  
25 signed to assist an individual with a disability

1 to perform daily activities on and off the job  
2 that the individual would typically perform if  
3 the individual did not have a disability. Such  
4 services shall be designed to increase the indi-  
5 vidual's control in life and ability to perform ev-  
6 eryday activities on or off the job.

7 (3) DETERMINATION OF AWARDS.—

8 (A) IN GENERAL.—Subject to subpara-  
9 graph (B), the Secretary shall determine a for-  
10 mula for awarding grants to States under this  
11 section that provides special consideration to  
12 States that provide medical assistance under  
13 title XIX of the Social Security Act to individ-  
14 uals described in section  
15 1902(a)(10)(A)(ii)(XVI) of that Act (42 U.S.C.  
16 1396a(a)(10)(A)(ii)(XVI)).

17 (B) AWARD LIMITS.—

18 (i) MINIMUM AWARDS.—

19 (I) IN GENERAL.—Subject to  
20 subclause (II), no State with an ap-  
21 proved application under this section  
22 shall receive a grant for a fiscal year  
23 that is less than \$500,000.

24 (II) PRO RATA REDUCTIONS.—If  
25 the funds appropriated under sub-

1 section (e) for a fiscal year are not  
2 sufficient to pay each State with an  
3 application approved under this sec-  
4 tion the minimum amount described  
5 in subclause (I), the Secretary shall  
6 pay each such State an amount equal  
7 to the pro rata share of the amount  
8 made available.

9 (ii) MAXIMUM AWARDS.—No State  
10 with an application that has been approved  
11 under this section shall receive a grant for  
12 a fiscal year that exceeds 15 percent of the  
13 total expenditures by the State (including  
14 the reimbursed Federal share of such ex-  
15 penditures) for medical assistance for indi-  
16 viduals eligible under subclause (XV) and  
17 (XVI) of section 1902(a)(10)(A)(ii) of the  
18 Social Security Act (42 U.S.C.  
19 1396a(a)(10)(A)(ii)), as estimated by the  
20 State and approved by the Secretary.

21 (c) AVAILABILITY OF FUNDS.—

22 (1) FUNDS AWARDED TO STATES.—Funds  
23 awarded to a State under a grant made under this  
24 section for a fiscal year shall remain available until  
25 expended.

1           (2) FUNDS NOT AWARDED TO STATES.—Funds  
2           not awarded to States in the fiscal year for which  
3           they are appropriated shall remain available in suc-  
4           ceeding fiscal years for awarding by the Secretary.

5           (d) ANNUAL REPORT.—A State that is awarded a  
6           grant under this section shall submit an annual report to  
7           the Secretary on the use of funds provided under the  
8           grant. Each report shall include the percentage increase  
9           in the number of title II disability beneficiaries, as defined  
10          in section 1148(k)(3) of the Social Security Act (as  
11          amended by section 201) in the State, and title XVI dis-  
12          ability beneficiaries, as defined in section 1148(k)(4) of  
13          the Social Security Act (as so amended) in the State who  
14          return to work.

15          (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
16          authorized to be appropriated to carry out this section—

17               (1) for fiscal year 2000, \$20,000,000;

18               (2) for fiscal year 2001, \$25,000,000;

19               (3) for fiscal year 2002, \$30,000,000;

20               (4) for fiscal year 2003, \$35,000,000;

21               (5) for fiscal year 2004, \$40,000,000; and

22               (6) for each of fiscal years 2005 through 2010,

23          the amount appropriated for the preceding fiscal

24          year under this subsection increased by the percent-

25          age increase (if any) in the Consumer Price Index



1 for All Urban Consumers (United States city aver-  
2 age) for the preceding fiscal year.

3 (f) RECOMMENDATION.—Not later than October 1,  
4 2009, the Secretary, in consultation with the Ticket to  
5 Work and Work Incentives Advisory Panel established  
6 under section 101(f), shall submit a recommendation to  
7 the Committee on Commerce of the House of Representa-  
8 tives and the Committee on Finance of the Senate regard-  
9 ing whether the grant program established under this sec-  
10 tion should be continued after fiscal year 2010.

11 **SEC. 204. DEMONSTRATION OF COVERAGE UNDER THE**  
12 **MEDICAID PROGRAM OF WORKERS WITH PO-**  
13 **TENTIALLY SEVERE DISABILITIES.**

14 (a) STATE APPLICATION.—A State may apply to the  
15 Secretary of Health and Human Services (in this section  
16 referred to as the “Secretary”) for approval of a dem-  
17 onstration project (in this section referred to as a “dem-  
18 onstration project”) under which up to a specified max-  
19 imum number of individuals who are workers with a po-  
20 tentially severe disability (as defined in subsection (b)(1))  
21 are provided medical assistance equal to that provided  
22 under section 1905(a) of the Social Security Act (42  
23 U.S.C. 1396d(a)) to individuals described in section  
24 1902(a)(10)(A)(ii)(XV) of that Act (42 U.S.C.  
25 1396a(a)(10)(A)(ii)(XV)).

1 (b) WORKER WITH A POTENTIALLY SEVERE DIS-  
2 ABILITY DEFINED.—For purposes of this section—

3 (1) IN GENERAL.—The term “worker with a  
4 potentially severe disability” means, with respect to  
5 a demonstration project, an individual who—

6 (A) is at least 16, but less than 65, years  
7 of age;

8 (B) has a specific physical or mental im-  
9 pairment that, as defined by the State under  
10 the demonstration project, is reasonably ex-  
11 pected, but for the receipt of items and services  
12 described in section 1905(a) of the Social Secu-  
13 rity Act (42 U.S.C. 1396d(a)), to become blind  
14 or disabled (as defined under section 1614(a) of  
15 the Social Security Act (42 U.S.C. 1382c(a)));  
16 and

17 (C) is employed (as defined in paragraph  
18 (2)).

19 (2) DEFINITION OF EMPLOYED.—An individual  
20 is considered to be “employed” if the individual—

21 (A) is earning at least the applicable min-  
22 imum wage requirement under section 6 of the  
23 Fair Labor Standards Act (29 U.S.C. 206) and  
24 working at least 40 hours per month; or

1 (B) is engaged in a work effort that meets  
2 substantial and reasonable threshold criteria for  
3 hours of work, wages, or other measures, as de-  
4 fined under the demonstration project and ap-  
5 proved by the Secretary.

6 (c) APPROVAL OF DEMONSTRATION PROJECTS.—

7 (1) IN GENERAL.—Subject to paragraph (3),  
8 the Secretary shall approve applications under sub-  
9 section (a) that meet the requirements of paragraph  
10 (2) and such additional terms and conditions as the  
11 Secretary may require. The Secretary may waive the  
12 requirement of section 1902(a)(1) of the Social Se-  
13 curity Act (42 U.S.C. 1396a(a)(1)) to allow for sub-  
14 State demonstrations.

15 (2) TERMS AND CONDITIONS OF DEMONSTRA-  
16 TION PROJECTS.—The Secretary may not approve a  
17 demonstration project under this section unless the  
18 State provides assurances satisfactory to the Sec-  
19 retary that the following conditions are or will be  
20 met:

21 (A) ELECTION OF OPTIONAL CATEGORY.—  
22 The State has elected to provide coverage under  
23 its plan under title XIX of the Social Security  
24 Act of individuals described in section

1 1902(a)(10)(A)(ii)(XV) of the Social Security  
2 Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XV)).

3 (B) MAINTENANCE OF STATE EFFORT.—  
4 Federal funds paid to a State pursuant to this  
5 section must be used to supplement, but not  
6 supplant, the level of State funds expended for  
7 workers with potentially severe disabilities  
8 under programs in effect for such individuals at  
9 the time the demonstration project is approved  
10 under this section.

11 (C) INDEPENDENT EVALUATION.—The  
12 State provides for an independent evaluation of  
13 the project.

14 (3) LIMITATIONS ON FEDERAL FUNDING.—

15 (A) AUTHORIZATION OF APPROPRIA-  
16 TIONS.—There is authorized to be appropriated  
17 to carry out this section—

18 (i) for fiscal year 2000, \$72,000,000;

19 (ii) for fiscal year 2001, \$74,000,000;

20 (iii) for fiscal year 2002, \$78,000,000;

21 and

22 (iv) for fiscal year 2003, \$81,000,000.

23 (B) LIMITATION ON PAYMENTS.—In no  
24 case may—

1 (i) the aggregate amount of payments  
2 made by the Secretary to States under this  
3 section, other than for administrative ex-  
4 penses described in clause (ii), exceed  
5 \$300,000,000;

6 (ii) the aggregate amount of payments  
7 made by the Secretary to States for ad-  
8 ministrative expenses relating to annual re-  
9 ports required under subsection (d) exceed  
10 \$5,000,000; or

11 (iii) payments be provided by the Sec-  
12 retary for a fiscal year after fiscal year  
13 2005.

14 (C) FUNDS ALLOCATED TO STATES.—The  
15 Secretary shall allocate funds to States based  
16 on their applications and the availability of  
17 funds. Funds allocated to a State under a grant  
18 made under this section for a fiscal year shall  
19 remain available until expended.

20 (D) FUNDS NOT ALLOCATED TO STATES.—  
21 Funds not allocated to States in the fiscal year  
22 for which they are appropriated shall remain  
23 available in succeeding fiscal years for alloca-  
24 tion by the Secretary using the allocation for-  
25 mula established under this section.

1           (E) PAYMENTS TO STATES.—The Sec-  
2           retary shall pay to each State with a dem-  
3           onstration project approved under this section,  
4           from its allocation under subparagraph (C), an  
5           amount for each quarter equal to the Federal  
6           medical assistance percentage (as defined in  
7           section 1905(b) of the Social Security Act (42  
8           U.S.C. 1395d(b)) of expenditures in the quarter  
9           for medical assistance provided to workers with  
10          a potentially severe disability.

11          (d) ANNUAL REPORT.—A State with a demonstration  
12          project approved under this section shall submit an annual  
13          report to the Secretary on the use of funds provided under  
14          the grant. Each report shall include enrollment and finan-  
15          cial statistics on—

16                (1) the total population of workers with poten-  
17                tially severe disabilities served by the demonstration  
18                project; and

19                (2) each population of such workers with a spe-  
20                cific physical or mental impairment described in sub-  
21                section (b)(1)(B) served by such project.

22          (e) RECOMMENDATION.—Not later than October 1,  
23          2002, the Secretary shall submit a recommendation to the  
24          Committee on Commerce of the House of Representatives  
25          and the Committee on Finance of the Senate regarding

1 whether the demonstration project established under this  
2 section should be continued after fiscal year 2003.

3 (f) STATE DEFINED.—In this section, the term  
4 “State” has the meaning given such term for purposes of  
5 title XIX of the Social Security Act (42 U.S.C. 1396 et  
6 seq.).

7 **SEC. 205. ELECTION BY DISABLED BENEFICIARIES TO SUS-**  
8 **PEND MEDIGAP INSURANCE WHEN COVERED**  
9 **UNDER A GROUP HEALTH PLAN.**

10 (a) IN GENERAL.—Section 1882(q) of the Social Se-  
11 curity Act (42 U.S.C. 1395ss(q)) is amended—

12 (1) in paragraph (5)(C), by inserting “or para-  
13 graph (6)” after “this paragraph”; and

14 (2) by adding at the end the following new  
15 paragraph:

16 “(6) Each medicare supplemental policy shall  
17 provide that benefits and premiums under the policy  
18 shall be suspended at the request of the policyholder  
19 if the policyholder is entitled to benefits under sec-  
20 tion 226(b) and is covered under a group health  
21 plan (as defined in section 1862(b)(1)(A)(v)). If  
22 such suspension occurs and if the policyholder or  
23 certificate holder loses coverage under the group  
24 health plan, such policy shall be automatically re-  
25 instituted (effective as of the date of such loss of

1 coverage) under terms described in subsection  
 2 (n)(6)(A)(ii) as of the loss of such coverage if the  
 3 policyholder provides notice of loss of such coverage  
 4 within 90 days after the date of such loss.”.

5 (b) EFFECTIVE DATE.—The amendments made by  
 6 subsection (a) apply with respect to requests made after  
 7 the date of the enactment of this Act.

## 8 **TITLE III—DEMONSTRATION** 9 **PROJECTS AND STUDIES**

### 10 **SEC. 301. EXTENSION OF DISABILITY INSURANCE PRO-** 11 **GRAM DEMONSTRATION PROJECT AUTHOR-** 12 **ITY.**

13 (a) EXTENSION OF AUTHORITY.—Title II of the So-  
 14 cial Security Act (42 U.S.C. 401 et seq.) is amended by  
 15 adding at the end the following:

16 “DEMONSTRATION PROJECT AUTHORITY

17 “SEC. 234. (a) AUTHORITY.—

18 “(1) IN GENERAL.—The Commissioner of So-  
 19 cial Security (in this section referred to as the ‘Com-  
 20 missioner’) shall develop and carry out experiments  
 21 and demonstration projects designed to determine  
 22 the relative advantages and disadvantages of—

23 “(A) various alternative methods of treat-  
 24 ing the work activity of individuals entitled to  
 25 disability insurance benefits under section 223  
 26 or to monthly insurance benefits under section



1           202 based on such individual's disability (as de-  
2           fined in section 223(d)), including such meth-  
3           ods as a reduction in benefits based on earn-  
4           ings, designed to encourage the return to work  
5           of such individuals;

6           “(B) altering other limitations and condi-  
7           tions applicable to such individuals (including  
8           lengthening the trial work period (as defined in  
9           section 222(c)), altering the 24-month waiting  
10          period for hospital insurance benefits under sec-  
11          tion 226, altering the manner in which the pro-  
12          gram under this title is administered, earlier re-  
13          ferral of such individuals for rehabilitation, and  
14          greater use of employers and others to develop,  
15          perform, and otherwise stimulate new forms of  
16          rehabilitation); and

17          “(C) implementing sliding scale benefit off-  
18          sets using variations in—

19                 “(i) the amount of the offset as a pro-  
20                 portion of earned income;

21                 “(ii) the duration of the offset period;

22                 and

23                 “(iii) the method of determining the  
24                 amount of income earned by such individ-  
25                 uals,

1 to the end that savings will accrue to the Trust  
2 Funds, or to otherwise promote the objectives or fa-  
3 cilitate the administration of this title.

4 “(2) AUTHORITY FOR EXPANSION OF SCOPE.—

5 The Commissioner may expand the scope of any  
6 such experiment or demonstration project to include  
7 any group of applicants for benefits under the pro-  
8 gram established under this title with impairments  
9 that reasonably may be presumed to be disabling for  
10 purposes of such demonstration project, and may  
11 limit any such demonstration project to any such  
12 group of applicants, subject to the terms of such  
13 demonstration project which shall define the extent  
14 of any such presumption.

15 “(b) REQUIREMENTS.—The experiments and dem-  
16 onstration projects developed under subsection (a) shall be  
17 of sufficient scope and shall be carried out on a wide  
18 enough scale to permit a thorough evaluation of the alter-  
19 native methods under consideration while giving assurance  
20 that the results derived from the experiments and projects  
21 will obtain generally in the operation of the disability in-  
22 surance program under this title without committing such  
23 program to the adoption of any particular system either  
24 locally or nationally.

1       “(c) AUTHORITY TO WAIVE COMPLIANCE WITH  
2 BENEFITS REQUIREMENTS.—In the case of any experi-  
3 ment or demonstration project conducted under subsection  
4 (a), the Commissioner may waive compliance with the ben-  
5 efit requirements of this title and the requirements of sec-  
6 tion 1148 as they relate to the program established under  
7 this title, and the Secretary may (upon the request of the  
8 Commissioner) waive compliance with the benefits require-  
9 ments of title XVIII, insofar as is necessary for a thorough  
10 evaluation of the alternative methods under consideration.  
11 No such experiment or project shall be actually placed in  
12 operation unless at least 90 days prior thereto a written  
13 report, prepared for purposes of notification and informa-  
14 tion only and containing a full and complete description  
15 thereof, has been transmitted by the Commissioner to the  
16 Committee on Ways and Means of the House of Rep-  
17 resentatives and to the Committee on Finance of the Sen-  
18 ate. Periodic reports on the progress of such experiments  
19 and demonstration projects shall be submitted by the  
20 Commissioner to such committees. When appropriate,  
21 such reports shall include detailed recommendations for  
22 changes in administration or law, or both, to carry out  
23 the objectives stated in subsection (a).

24       “(d) REPORTS.—

1           “(1) INTERIM REPORTS.—On or before June 9  
2 of each year, the Commissioner shall submit to the  
3 Committee on Ways and Means of the House of  
4 Representatives and to the Committee on Finance of  
5 the Senate an annual interim report on the progress  
6 of the experiments and demonstration projects car-  
7 ried out under this subsection together with any re-  
8 lated data and materials that the Commissioner may  
9 consider appropriate.

10           “(2) TERMINATION AND FINAL REPORT.—The  
11 authority under the preceding provisions of this sec-  
12 tion (including any waiver granted pursuant to sub-  
13 section (c)) shall terminate 5 years after the date of  
14 the enactment of this Act. Not later than 90 days  
15 after the termination of any experiment or dem-  
16 onstration project carried out under this section, the  
17 Commissioner shall submit to the Committee on  
18 Ways and Means of the House of Representatives  
19 and to the Committee on Finance of the Senate a  
20 final report with respect to that experiment or dem-  
21 onstration project.”.

22           (b) CONFORMING AMENDMENTS; TRANSFER OF  
23 PRIOR AUTHORITY.—

24           (1) CONFORMING AMENDMENTS.—

1 (A) REPEAL OF PRIOR AUTHORITY.—Para-  
2 graphs (1) through (4) of subsection (a) and  
3 subsection (c) of section 505 of the Social Secu-  
4 rity Disability Amendments of 1980 (42 U.S.C.  
5 1310 note) are repealed.

6 (B) CONFORMING AMENDMENT REGARD-  
7 ING FUNDING.—Section 201(k) of the Social  
8 Security Act (42 U.S.C. 401(k)) is amended by  
9 striking “section 505(a) of the Social Security  
10 Disability Amendments of 1980” and inserting  
11 “section 234”.

12 (2) TRANSFER OF PRIOR AUTHORITY.—With  
13 respect to any experiment or demonstration project  
14 being conducted under section 505(a) of the Social  
15 Security Disability Amendments of 1980 (42 U.S.C.  
16 1310 note) as of the date of enactment of this Act,  
17 the authority to conduct such experiment or dem-  
18 onstration project (including the terms and condi-  
19 tions applicable to the experiment or demonstration  
20 project) shall be treated as if that authority (and  
21 such terms and conditions) had been established  
22 under section 234 of the Social Security Act, as  
23 added by subsection (a).

1 **SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR RE-**  
2 **DUCTIONS IN DISABILITY INSURANCE BENE-**  
3 **FITS BASED ON EARNINGS.**

4 (a) **AUTHORITY.**—The Commissioner of Social Secu-  
5 rity shall conduct demonstration projects for the purpose  
6 of evaluating, through the collection of data, a program  
7 for title II disability beneficiaries (as defined in section  
8 1148(k)(3) of the Social Security Act) under which bene-  
9 fits payable under section 223 of such Act, or under sec-  
10 tion 202 of such Act based on the beneficiary's disability,  
11 are reduced by \$1 for each \$2 of the beneficiary's earnings  
12 that is above a level to be determined by the Commis-  
13 sioner. Such projects shall be conducted at a number of  
14 localities which the Commissioner shall determine is suffi-  
15 cient to adequately evaluate the appropriateness of na-  
16 tional implementation of such a program. Such projects  
17 shall identify reductions in Federal expenditures that may  
18 result from the permanent implementation of such a pro-  
19 gram.

20 (b) **SCOPE AND SCALE AND MATTERS TO BE DETER-**  
21 **MINED.**—

22 (1) **IN GENERAL.**—The demonstration projects  
23 developed under subsection (a) shall be of sufficient  
24 duration, shall be of sufficient scope, and shall be  
25 carried out on a wide enough scale to permit a thor-  
26 ough evaluation of the project to determine—

1 (A) the effects, if any, of induced entry  
2 into the project and reduced exit from the  
3 project;

4 (B) the extent, if any, to which the project  
5 being tested is affected by whether it is in oper-  
6 ation in a locality within an area under the ad-  
7 ministration of the Ticket to Work and Self-  
8 Sufficiency Program established under section  
9 1148 of the Social Security Act; and

10 (C) the savings that accrue to the Federal  
11 Old-Age and Survivors Insurance Trust Fund,  
12 the Federal Disability Insurance Trust Fund,  
13 and other Federal programs under the project  
14 being tested.

15 The Commissioner shall take into account advice  
16 provided by the Ticket to Work and Work Incentives  
17 Advisory Panel pursuant to section 101(f)(2)(B)(ii)  
18 of this Act.

19 (2) ADDITIONAL MATTERS.—The Commissioner  
20 shall also determine with respect to each project—

21 (A) the annual cost (including net cost) of  
22 the project and the annual cost (including net  
23 cost) that would have been incurred in the ab-  
24 sence of the project;

1 (B) the determinants of return to work, in-  
2 cluding the characteristics of the beneficiaries  
3 who participate in the project; and

4 (C) the employment outcomes, including  
5 wages, occupations, benefits, and hours worked,  
6 of beneficiaries who return to work as a result  
7 of participation in the project.

8 The Commissioner may include within the matters  
9 evaluated under the project the merits of trial work  
10 periods and periods of extended eligibility.

11 (c) WAIVERS.—The Commissioner may waive compli-  
12 ance with the benefit provisions of title II of the Social  
13 Security Act, and the Secretary of Health and Human  
14 Services may waive compliance with the benefit require-  
15 ments of title XVIII of such Act, insofar as is necessary  
16 for a thorough evaluation of the alternative methods under  
17 consideration. No such project shall be actually placed in  
18 operation unless at least 90 days prior thereto a written  
19 report, prepared for purposes of notification and informa-  
20 tion only and containing a full and complete description  
21 thereof, has been transmitted by the Commissioner to the  
22 Committee on Ways and Means of the House of Rep-  
23 resentatives and to the Committee on Finance of the Sen-  
24 ate. Periodic reports on the progress of such projects shall  
25 be submitted by the Commissioner to such committees.



1 When appropriate, such reports shall include detailed rec-  
2 ommendations for changes in administration or law, or  
3 both, to carry out the objectives stated in subsection (a).

4 (d) INTERIM REPORTS.—Not later than 2 years after  
5 the date of enactment of this Act, and annually thereafter,  
6 the Commissioner of Social Security shall submit to Con-  
7 gress an interim report on the progress of the demonstra-  
8 tion projects carried out under this subsection together  
9 with any related data and materials that the Commis-  
10 sioner of Social Security may consider appropriate.

11 (e) FINAL REPORT.—The Commissioner of Social Se-  
12 curity shall submit to Congress a final report with respect  
13 to all demonstration projects carried out under this section  
14 not later than 1 year after their completion.

15 (f) EXPENDITURES.—Expenditures made for dem-  
16 onstration projects under this section shall be made from  
17 the Federal Disability Insurance Trust Fund and the Fed-  
18 eral Old-Age and Survivors Insurance Trust Fund, as de-  
19 termined appropriate by the Commissioner of Social Secu-  
20 rity, and from the Federal Hospital Insurance Trust Fund  
21 and the Federal Supplementary Medical Insurance Trust  
22 Fund, as determined appropriate by the Secretary of  
23 Health and Human Services, to the extent provided in ad-  
24 vance in appropriation Acts.

1 **SEC. 303. STUDIES AND REPORTS.**

2 (a) STUDY BY GENERAL ACCOUNTING OFFICE OF  
3 EXISTING DISABILITY-RELATED EMPLOYMENT INCEN-  
4 TIVES.—

5 (1) STUDY.—As soon as practicable after the  
6 date of enactment of this Act, the Comptroller Gen-  
7 eral of the United States shall undertake a study to  
8 assess existing tax credits and other disability-re-  
9 lated employment incentives under the Americans  
10 with Disabilities Act of 1990 and other Federal  
11 laws. In such study, the Comptroller General shall  
12 specifically address the extent to which such credits  
13 and other incentives would encourage employers to  
14 hire and retain individuals with disabilities.

15 (2) REPORT.—Not later than 3 years after the  
16 date of enactment of this Act, the Comptroller Gen-  
17 eral shall transmit to the Committee on Ways and  
18 Means of the House of Representatives and the  
19 Committee on Finance of the Senate a written re-  
20 port presenting the results of the Comptroller Gen-  
21 eral's study conducted pursuant to this subsection,  
22 together with such recommendations for legislative  
23 or administrative changes as the Comptroller Gen-  
24 eral determines are appropriate.

25 (b) STUDY BY GENERAL ACCOUNTING OFFICE OF  
26 EXISTING COORDINATION OF THE DI AND SSI PROGRAMS

1 AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAV-  
2 ING CONCURRENT ENTITLEMENT.—

3 (1) STUDY.—As soon as practicable after the  
4 date of enactment of this Act, the Comptroller Gen-  
5 eral of the United States shall undertake a study to  
6 evaluate the coordination under current law of the  
7 disability insurance program under title II of the So-  
8 cial Security Act and the supplemental security in-  
9 come program under title XVI of such Act, as such  
10 programs relate to individuals entering or leaving  
11 concurrent entitlement under such programs. In  
12 such study, the Comptroller General shall specifically  
13 address the effectiveness of work incentives under  
14 such programs with respect to such individuals and  
15 the effectiveness of coverage of such individuals  
16 under titles XVIII and XIX of such Act.

17 (2) REPORT.—Not later than 3 years after the  
18 date of enactment of this Act, the Comptroller Gen-  
19 eral shall transmit to the Committee on Ways and  
20 Means of the House of Representatives and the  
21 Committee on Finance of the Senate a written re-  
22 port presenting the results of the Comptroller Gen-  
23 eral's study conducted pursuant to this subsection,  
24 together with such recommendations for legislative

1 or administrative changes as the Comptroller Gen-  
2 eral determines are appropriate.

3 (c) STUDY BY GENERAL ACCOUNTING OFFICE OF  
4 THE IMPACT OF THE SUBSTANTIAL GAINFUL ACTIVITY  
5 LIMIT ON RETURN TO WORK.—

6 (1) STUDY.—As soon as practicable after the  
7 date of enactment of this Act, the Comptroller Gen-  
8 eral of the United States shall undertake a study of  
9 the substantial gainful activity level applicable as of  
10 that date to recipients of benefits under section 223  
11 of the Social Security Act (42 U.S.C. 423) and  
12 under section 202 of such Act (42 U.S.C. 402) on  
13 the basis of a recipient having a disability, and the  
14 effect of such level as a disincentive for those recipi-  
15 ents to return to work. In the study, the Comptroller  
16 General also shall address the merits of increasing  
17 the substantial gainful activity level applicable to  
18 such recipients of benefits and the rationale for not  
19 yearly indexing that level to inflation.

20 (2) REPORT.—Not later than 2 years after the  
21 date of enactment of this Act, the Comptroller Gen-  
22 eral shall transmit to the Committee on Ways and  
23 Means of the House of Representatives and the  
24 Committee on Finance of the Senate a written re-  
25 port presenting the results of the Comptroller Gen-

1 eral's study conducted pursuant to this subsection,  
2 together with such recommendations for legislative  
3 or administrative changes as the Comptroller Gen-  
4 eral determines are appropriate.

5 (d) REPORT ON DISREGARDS UNDER THE DI AND  
6 SSI PROGRAMS.—Not later than 90 days after the date  
7 of enactment of this Act, the Commissioner of Social Secu-  
8 rity shall submit to the Committee on Ways and Means  
9 of the House of Representatives and the Committee on  
10 Finance of the Senate a report that—

11 (1) identifies all income, assets, and resource  
12 disregards (imposed under statutory or regulatory  
13 authority) that are applicable to individuals receiving  
14 benefits under title II or XVI of the Social Security  
15 Act (42 U.S.C. 401 et seq., 1381 et seq.);

16 (2) with respect to each such disregard—

17 (A) specifies the most recent statutory or  
18 regulatory modification of the disregard; and

19 (B) recommends whether further statutory  
20 or regulatory modification of the disregard  
21 would be appropriate; and

22 (3) with respect to the disregard described in  
23 section 1612(b)(7) of such Act (42 U.S.C.  
24 1382a(b)(7)) (relating to grants, scholarships, or fel-  
25 lowships received for use in paying the cost of tui-

1       tion and fees at any educational (including technical  
2       or vocational education) institution)—

3               (A) identifies the number of individuals re-  
4       ceiving benefits under title XVI of such Act (42  
5       U.S.C. 1381 et seq.) who have attained age 22  
6       and have not had any portion of any grant,  
7       scholarship, or fellowship received for use in  
8       paying the cost of tuition and fees at any edu-  
9       cational (including technical or vocational edu-  
10      cation) institution excluded from their income  
11      in accordance with that section;

12              (B) recommends whether the age at which  
13      such grants, scholarships, or fellowships are ex-  
14      cluded from income for purposes of determining  
15      eligibility under title XVI of such Act should be  
16      increased to age 25; and

17              (C) recommends whether such disregard  
18      should be expanded to include any such grant,  
19      scholarship, or fellowship received for use in  
20      paying the cost of room and board at any such  
21      institution.

22              (e) STUDY BY THE GENERAL ACCOUNTING OFFICE  
23      OF SOCIAL SECURITY ADMINISTRATION'S DISABILITY IN-  
24      SURANCE PROGRAM DEMONSTRATION AUTHORITY.—

1           (1) STUDY.—As soon as practicable after the  
2 date of the enactment of this Act, the Comptroller  
3 General of the United States shall undertake a study  
4 to assess the results of the Social Security Adminis-  
5 tration's efforts to conduct disability demonstrations  
6 authorized under prior law as well as under section  
7 301 of this Act.

8           (2) REPORT.—Not later than 5 years after the  
9 date of the enactment of this Act, the Comptroller  
10 General shall transmit to the Committee on Ways  
11 and Means of the House of Representatives and the  
12 Committee on Finance of the Senate a written re-  
13 port presenting the results of the Comptroller Gen-  
14 eral's study conducted pursuant to this section, to-  
15 gether with a recommendation as to whether the  
16 demonstration authority authorized under section  
17 301 of this Act should be made permanent.

## 18 **TITLE IV—MISCELLANEOUS AND** 19 **TECHNICAL AMENDMENTS**

### 20 **SEC. 401. TECHNICAL AMENDMENTS RELATING TO DRUG** 21 **ADDICTS AND ALCOHOLICS.**

22           (a) CLARIFICATION RELATING TO THE EFFECTIVE  
23 DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY  
24 BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Sec-

1 tion 105(a)(5) of the Contract with America Advancement  
2 Act of 1996 (42 U.S.C. 405 note) is amended—

3 (1) in subparagraph (A), by striking “by the  
4 Commissioner of Social Security” and “by the Com-  
5 missioner”; and

6 (2) by adding at the end the following:

7 “(D) For purposes of this paragraph, an  
8 individual’s claim, with respect to benefits  
9 under title II based on disability, which has  
10 been denied in whole before the date of the en-  
11 actment of this Act, may not be considered to  
12 be finally adjudicated before such date if, on or  
13 after such date—

14 “(i) there is pending a request for ei-  
15 ther administrative or judicial review with  
16 respect to such claim; or

17 “(ii) there is pending, with respect to  
18 such claim, a readjudication by the Com-  
19 missioner of Social Security pursuant to  
20 relief in a class action or implementation  
21 by the Commissioner of a court remand  
22 order.

23 “(E) Notwithstanding the provisions of  
24 this paragraph, with respect to any individual  
25 for whom the Commissioner of Social Security



1 does not perform the entitlement redetermina-  
2 tion before the date prescribed in subparagraph  
3 (C), the Commissioner shall perform such enti-  
4 tlement redetermination in lieu of a continuing  
5 disability review whenever the Commissioner de-  
6 termines that the individual's entitlement is  
7 subject to redetermination based on the pre-  
8 ceding provisions of this paragraph, and the  
9 provisions of section 223(f) shall not apply to  
10 such redetermination.”.

11 (b) CORRECTION TO EFFECTIVE DATE OF PROVI-  
12 SIONS CONCERNING REPRESENTATIVE PAYEES AND  
13 TREATMENT REFERRALS OF SOCIAL SECURITY BENE-  
14 FICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—  
15 Section 105(a)(5)(B) of the Contract with America Ad-  
16 vancement Act of 1996 (42 U.S.C. 405 note) is amended  
17 to read as follows:

18 “(B) The amendments made by para-  
19 graphs (2) and (3) shall take effect on July 1,  
20 1996, with respect to any individual—

21 “(i) whose claim for benefits is finally  
22 adjudicated on or after the date of the en-  
23 actment of this Act; or

1                   “(ii) whose entitlement to benefits is  
2                   based upon an entitlement redetermination  
3                   made pursuant to subparagraph (C).”.

4           (c) **EFFECTIVE DATES.**—The amendments made by  
5 this section shall take effect as if included in the enact-  
6 ment of section 105 of the Contract with America Ad-  
7 vancement Act of 1996 (Public Law 104–121; 110 Stat.  
8 852 et seq.).

9 **SEC. 402. TREATMENT OF PRISONERS.**

10           (a) **IMPLEMENTATION OF PROHIBITION AGAINST**  
11 **PAYMENT OF TITLE II BENEFITS TO PRISONERS.**—

12                   (1) **IN GENERAL.**—Section 202(x)(3) of the So-  
13 cial Security Act (42 U.S.C. 402(x)(3)) is  
14 amended—

15                           (A) by inserting “(A)” after “(3)”; and

16                           (B) by adding at the end the following:

17                   “(B)(i) The Commissioner shall enter into an agree-  
18 ment under this subparagraph with any interested State  
19 or local institution comprising a jail, prison, penal institu-  
20 tion, or correctional facility, or comprising any other insti-  
21 tution a purpose of which is to confine individuals as de-  
22 scribed in paragraph (1)(A)(ii). Under such agreement—

23                           “(I) the institution shall provide to the Com-  
24 missioner, on a monthly basis and in a manner spec-  
25 ified by the Commissioner, the names, Social Secu-

1 rity account numbers, dates of birth, confinement  
2 commencement dates, and, to the extent available to  
3 the institution, such other identifying information  
4 concerning the individuals confined in the institution  
5 as the Commissioner may require for the purpose of  
6 carrying out paragraph (1) and other provisions of  
7 this title; and

8 “(II) the Commissioner shall pay to the institu-  
9 tion, with respect to information described in sub-  
10 clause (I) concerning each individual who is confined  
11 therein as described in paragraph (1)(A), who re-  
12 ceives a benefit under this title for the month pre-  
13 ceeding the first month of such confinement, and  
14 whose benefit under this title is determined by the  
15 Commissioner to be not payable by reason of con-  
16 finement based on the information provided by the  
17 institution, \$400 (subject to reduction under clause  
18 (ii)) if the institution furnishes the information to  
19 the Commissioner within 30 days after the date such  
20 individual’s confinement in such institution begins,  
21 or \$200 (subject to reduction under clause (ii)) if  
22 the institution furnishes the information after 30  
23 days after such date but within 90 days after such  
24 date.

1       “(ii) The dollar amounts specified in clause (i)(II)  
2 shall be reduced by 50 percent if the Commissioner is also  
3 required to make a payment to the institution with respect  
4 to the same individual under an agreement entered into  
5 under section 1611(e)(1)(I).

6       “(iii) There are authorized to be transferred from the  
7 Federal Old-Age and Survivors Insurance Trust Fund and  
8 the Federal Disability Insurance Trust Fund, as appro-  
9 priate, such sums as may be necessary to enable the Com-  
10 missioner to make payments to institutions required by  
11 clause (i)(II).

12       “(iv) The Commissioner shall maintain, and shall  
13 provide on a reimbursable basis, information obtained pur-  
14 suant to agreements entered into under this paragraph to  
15 any agency administering a Federal or federally-assisted  
16 cash, food, or medical assistance program for eligibility  
17 and other administrative purposes under such program.”.

18               (2) CONFORMING AMENDMENTS TO THE PRI-  
19 VACY ACT.—Section 552a(a)(8)(B) of title 5, United  
20 States Code, is amended—

21               (A) in clause (vi), by striking “or” at the  
22 end;

23               (B) in clause (vii), by adding “or” at the  
24 end; and

25               (C) by adding at the end the following:

1           “(viii) matches performed pursuant to  
2           section 202(x)(3) or 1611(e)(1) of the So-  
3           cial Security Act (42 U.S.C. 402(x)(3),  
4           1382(e)(1));”.

5           (3) CONFORMING AMENDMENTS TO TITLE  
6           XVI.—

7           (A) Section 1611(e)(1)(I)(i)(I) of the So-  
8           cial Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I))  
9           is amended by striking “; and” and inserting  
10          “and the other provisions of this title; and”.

11          (B) Section 1611(e)(1)(I)(ii)(II) of such  
12          Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amend-  
13          ed by striking “is authorized to provide, on a  
14          reimbursable basis,” and inserting “shall main-  
15          tain, and shall provide on a reimbursable  
16          basis,”.

17          (C) Section 1611(e)(1)(I)(ii)(II) of such  
18          Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amend-  
19          ed by striking “eligibility purposes” and insert-  
20          ing “eligibility and other administrative pur-  
21          poses under such program”.

22          (4) EFFECTIVE DATE.—The amendments made  
23          by this subsection shall apply to individuals whose  
24          period of confinement in an institution commences

1 on or after the first day of the fourth month begin-  
2 ning after the month in which this Act is enacted.

3 (b) ELIMINATION OF TITLE II REQUIREMENT THAT  
4 CONFINEMENT STEM FROM CRIME PUNISHABLE BY IM-  
5 PRISONMENT FOR MORE THAN 1 YEAR.—

6 (1) IN GENERAL.—Section 202(x)(1)(A) of the  
7 Social Security Act (42 U.S.C. 402(x)(1)(A)) is  
8 amended—

9 (A) in clause (i), by striking “an offense  
10 punishable by imprisonment for more than 1  
11 year (regardless of the actual sentence im-  
12 posed)” and inserting “a criminal offense”; and

13 (B) in clause (ii)(I), by striking “an of-  
14 fense punishable by imprisonment for more  
15 than 1 year” and inserting “a criminal of-  
16 fense”.

17 (2) EFFECTIVE DATE.—The amendments made  
18 by this subsection shall apply to individuals whose  
19 period of confinement in an institution commences  
20 on or after the first day of the fourth month begin-  
21 ning after the month in which this Act is enacted.

22 (c) CONFORMING TITLE XVI AMENDMENTS.—

23 (1) 50 PERCENT REDUCTION IN TITLE XVI PAY-  
24 MENT IN CASE INVOLVING COMPARABLE TITLE II

1 PAYMENT.—Section 1611(e)(1)(I) of the Social Se-  
2 curity Act (42 U.S.C. 1382(e)(1)(I)) is amended—

3 (A) in clause (i)(II), by inserting “(subject  
4 to reduction under clause (ii))” after “\$400”  
5 and after “\$200”;

6 (B) by redesignating clauses (ii) and (iii)  
7 as clauses (iii) and (iv) respectively; and

8 (C) by inserting after clause (i) the fol-  
9 lowing:

10 “(ii) The dollar amounts specified in clause (i)(II)  
11 shall be reduced by 50 percent if the Commissioner is also  
12 required to make a payment to the institution with respect  
13 to the same individual under an agreement entered into  
14 under section 202(x)(3)(B).”.

15 (2) EXPANSION OF CATEGORIES OF INSTITU-  
16 TIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH  
17 THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of  
18 such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in  
19 the matter preceding subclause (I) by striking “in-  
20 stitution” and all that follows through “section  
21 202(x)(1)(A),” and inserting “institution comprising  
22 a jail, prison, penal institution, or correctional facil-  
23 ity, or with any other interested State or local insti-  
24 tution a purpose of which is to confine individuals  
25 as described in section 202(x)(1)(A)(ii),”.

1           (3) ELIMINATION OF OVERLY BROAD EXEMP-  
2           TION.—Section 1611(e)(1)(I)(iii) of such Act (as re-  
3           designated by paragraph (1)(B)) is amended  
4           further—

5                   (A) by striking “(I) The provisions” and  
6                   all that follows through “(II)”; and

7                   (B) by striking “eligibility purposes” and  
8                   inserting “eligibility and other administrative  
9                   purposes under such program”.

10           (4) EFFECTIVE DATE.—The amendments made  
11           by this subsection shall take effect as if included in  
12           the enactment of section 203(a) of the Personal Re-  
13           sponsibility and Work Opportunity Reconciliation  
14           Act of 1996 (Public Law 104–193; 110 Stat. 2186).  
15           The reference to section 202(x)(1)(A)(ii) in section  
16           1611(e)(1)(I)(i) of the Social Security Act as  
17           amended by paragraph (2) shall be deemed a ref-  
18           erence to such section 202(x)(1)(A)(ii) of such Act  
19           as amended by subsection (b)(1)(C).

20           (d) CONTINUED DENIAL OF BENEFITS TO SEX OF-  
21           FENDERS REMAINING CONFINED TO PUBLIC INSTITU-  
22           TIONS UPON COMPLETION OF PRISON TERM.—

23                   (1) IN GENERAL.—Section 202(x)(1)(A) of the  
24                   Social Security Act (42 U.S.C. 402(x)(1)(A)) is  
25                   amended—



1 (A) in clause (i), by striking “or” at the  
2 end;

3 (B) in clause (ii)(IV), by striking the pe-  
4 riod and inserting “, or”; and

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

7 “(iii) immediately upon completion of confine-  
8 ment as described in clause (i) pursuant to convic-  
9 tion of a criminal offense an element of which is sex-  
10 ual activity, is confined by court order in an institu-  
11 tion at public expense pursuant to a finding that the  
12 individual is a sexually dangerous person or a sexual  
13 predator or a similar finding.”.

14 (2) CONFORMING AMENDMENT.—Section  
15 202(x)(1)(B)(ii) of such Act (42 U.S.C.  
16 402(x)(1)(B)(ii)) is amended by striking “clause  
17 (ii)” and inserting “clauses (ii) and (iii)”.

18 (3) EFFECTIVE DATE.—The amendments made  
19 by this subsection shall apply with respect to bene-  
20 fits for months ending after the date of the enact-  
21 ment of this Act.

1 **SEC. 403. REVOCATION BY MEMBERS OF THE CLERGY OF**  
2 **EXEMPTION FROM SOCIAL SECURITY COV-**  
3 **ERAGE.**

4 (a) IN GENERAL.—Notwithstanding section  
5 1402(e)(4) of the Internal Revenue Code of 1986, any ex-  
6 emption which has been received under section 1402(e)(1)  
7 of such Code by a duly ordained, commissioned, or li-  
8 censed minister of a church, a member of a religious order,  
9 or a Christian Science practitioner, and which is effective  
10 for the taxable year in which this Act is enacted, may be  
11 revoked by filing an application therefor (in such form and  
12 manner, and with such official, as may be prescribed by  
13 the Commissioner of Internal Revenue), if such applica-  
14 tion is filed no later than the due date of the Federal in-  
15 come tax return (including any extension thereof) for the  
16 applicant's second taxable year beginning after December  
17 31, 1999. Any such revocation shall be effective (for pur-  
18 poses of chapter 2 of the Internal Revenue Code of 1986  
19 and title II of the Social Security Act), as specified in the  
20 application, either with respect to the applicant's first tax-  
21 able year beginning after December 31, 1999, or with re-  
22 spect to the applicant's second taxable year beginning  
23 after such date, and for all succeeding taxable years; and  
24 the applicant for any such revocation may not thereafter  
25 again file application for an exemption under such section  
26 1402(e)(1). If the application is filed after the due date

1 of the applicant's Federal income tax return for a taxable  
2 year and is effective with respect to that taxable year, it  
3 shall include or be accompanied by payment in full of an  
4 amount equal to the total of the taxes that would have  
5 been imposed by section 1401 of the Internal Revenue  
6 Code of 1986 with respect to all of the applicant's income  
7 derived in that taxable year which would have constituted  
8 net earnings from self-employment for purposes of chapter  
9 2 of such Code (notwithstanding paragraphs (4) and (5)  
10 of section 1402(c)) except for the exemption under section  
11 1402(e)(1) of such Code.

12 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
13 with respect to service performed (to the extent specified  
14 in such subsection) in taxable years beginning after De-  
15 cember 31, 1999, and with respect to monthly insurance  
16 benefits payable under title II on the basis of the wages  
17 and self-employment income of any individual for months  
18 in or after the calendar year in which such individual's  
19 application for revocation (as described in such sub-  
20 section) is effective (and lump-sum death payments pay-  
21 able under such title on the basis of such wages and self-  
22 employment income in the case of deaths occurring in or  
23 after such calendar year).

1 **SEC. 404. ADDITIONAL TECHNICAL AMENDMENT RELATING**  
2 **TO COOPERATIVE RESEARCH OR DEM-**  
3 **ONSTRATION PROJECTS UNDER TITLES II**  
4 **AND XVI.**

5 (a) **IN GENERAL.**—Section 1110(a)(3) of the Social  
6 Security Act (42 U.S.C. 1310(a)(3)) is amended by strik-  
7 ing “title XVI” and inserting “title II or XVI”.

8 (b) **EFFECTIVE DATE.**—The amendment made by  
9 subsection (a) shall take effect as if included in the enact-  
10 ment of the Social Security Independence and Program  
11 Improvements Act of 1994 (Public Law 103–296; 108  
12 Stat. 1464).

13 **SEC. 405. AUTHORIZATION FOR STATE TO PERMIT ANNUAL**  
14 **WAGE REPORTS.**

15 (a) **IN GENERAL.**—Section 1137(a)(3) of the Social  
16 Security Act (42 U.S.C. 1320b–7(a)(3)) is amended by  
17 inserting before the semicolon the following: “, and except  
18 that in the case of wage reports with respect to domestic  
19 service employment, a State may permit employers (as so  
20 defined) that make returns with respect to such employ-  
21 ment on a calendar year basis pursuant to section 3510  
22 of the Internal Revenue Code of 1986 to make such re-  
23 ports on an annual basis”.

24 (b) **TECHNICAL AMENDMENTS.**—Section 1137(a)(3)  
25 of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is  
26 amended—

1 (1) by striking “(as defined in section  
2 453A(a)(2)(B)(iii))”; and

3 (2) by inserting “(as defined in section  
4 453A(a)(2)(B))” after “employers” .

5 (c) EFFECTIVE DATE.—The amendments made by  
6 this section shall apply to wage reports required to be sub-  
7 mitted on and after the date of enactment of this Act.

8 **SEC. 406. ASSESSMENT ON ATTORNEYS WHO RECEIVE**  
9 **THEIR FEES VIA THE SOCIAL SECURITY AD-**  
10 **MINISTRATION.**

11 (a) IN GENERAL.—Section 206 of the Social Security  
12 Act (42 U.S.C. 606) is amended by adding at the end the  
13 following:

14 “(d) ASSESSMENT ON ATTORNEYS.—

15 “(1) IN GENERAL.—Whenever a fee for services  
16 is required to be certified for payment to an attorney  
17 from a claimant’s past-due benefits pursuant to sub-  
18 section (a)(4)(A) or (b)(1)(A), the Commissioner  
19 shall impose on the attorney an assessment cal-  
20 culated in accordance with paragraph (2).

21 “(2) AMOUNT.—

22 “(A) The amount of an assessment under  
23 paragraph (1) shall be equal to the product ob-  
24 tained by multiplying the amount of the rep-  
25 resentative’s fee that would be required to be so

1 certified by subsection (a)(4)(A) or (b)(1)(A)  
2 before the application of this subsection, by the  
3 percentage specified in subparagraph (B).

4 “(B) The percentage specified in this sub-  
5 paragraph is—

6 “(i) for calendar years before 2001,  
7 6.3 percent, and

8 “(ii) for calendar years after 2000,  
9 6.3 percent or such different percentage  
10 rate as the Commissioner determines is  
11 necessary in order to achieve full recovery  
12 of the costs of certifying fees to attorneys  
13 from the past-due benefits of claimants.

14 “(3) COLLECTION.—The Commissioner may  
15 collect the assessment imposed on an attorney under  
16 paragraph (1) by offset from the amount of the fee  
17 otherwise required by subsection (a)(4)(A) or  
18 (b)(1)(A) to be certified for payment to the attorney  
19 from a claimant’s past-due benefits.

20 “(4) PROHIBITION ON CLAIMANT REIMBURSE-  
21 MENT.—An attorney subject to an assessment under  
22 paragraph (1) may not, directly or indirectly, re-  
23 quest or otherwise obtain reimbursement for such  
24 assessment from the claimant whose claim gave rise  
25 to the assessment.

1           “(5) DISPOSITION OF ASSESSMENTS.—Assess-  
2           ments on attorneys collected under this subsection  
3           shall be credited to the Federal Old-Age and Sur-  
4           vivors Insurance Trust Fund and the Federal Dis-  
5           ability Insurance Trust Fund, as appropriate.

6           “(6) AUTHORIZATION OF APPROPRIATIONS.—  
7           The assessments authorized under this section shall  
8           be collected and available for obligation only to the  
9           extent and in the amount provided in advance in ap-  
10          propriations Acts. Amounts so appropriated are au-  
11          thorized to remain available until expended, for ad-  
12          ministrative expenses in carrying out title II of the  
13          Social Security Act and related laws.

14          (b) CONFORMING AMENDMENTS.—

15                 (1) Section 206(a)(4)(A) of such Act (42  
16                 U.S.C. 606(a)(4)(A)) is amended by inserting “and  
17                 subsection (d)” after “subparagraph (B)”.

18                 (2) Section 206(b)(1)(A) of such Act (42  
19                 U.S.C. 606(b)(1)(A)) is amended by inserting “, but  
20                 subject to subsection (d) of this section” after “sec-  
21                 tion 205(i)”.

22          (c) EFFECTIVE DATE.—The amendments made by  
23          this section shall apply in the case of any attorney with  
24          respect to whom a fee for services is required to be cer-  
25          tified for payment from a claimant’s past-due benefits

1 pursuant to subsection (a)(4)(A) or (b)(4)(A) of section  
2 206 of the Social Security Act after—

3 (1) December 31, 1999, or

4 (2) the last day of the first month beginning  
5 after the month in which this Act is enacted.

6 **SEC. 407. EXTENSION OF AUTHORITY OF STATE MEDICAID**

7 **FRAUD CONTROL UNITS.**

8 (a) **EXTENSION OF CONCURRENT AUTHORITY TO IN-**  
9 **VESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL**  
10 **HEALTH CARE PROGRAMS.**—Section 1903(q)(3) of the  
11 Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

12 (1) by inserting “(A)” after “in connection  
13 with”; and

14 (2) by striking “title.” and inserting “title; and  
15 (B) upon the approval of the Inspector General of  
16 the relevant Federal agency in a particular case or  
17 investigation, any aspect of the provision of health  
18 care services and activities of providers of such serv-  
19 ices under any Federal health care program (as de-  
20 fined in section 1128B(f)(1)), if (i) the suspected  
21 fraud or violation of law in such case or investiga-  
22 tion is primarily related to the State plan under this  
23 title, and (ii) when such approval is granted, the In-  
24 spector General of the relevant Federal agency re-  
25 tains the continuing authority to join the case or in-



1 investigation, or after consultation with the entity, to  
2 replace the entity as the primary agency assigned to  
3 the case or investigation.”.

4 (b) RECOUPMENT OF FUNDS.—Section 1903(q)(5) of  
5 such Act (42 U.S.C. 1396b(q)(5)) is amended—

6 (1) by inserting “or under any Federal health  
7 care program (as so defined)” after “plan”; and

8 (2) by adding at the end the following: “All  
9 funds collected in accordance with this paragraph  
10 shall be credited exclusively to, and available for ex-  
11 penditure under, the Federal health care program  
12 (including the State plan under this title) that was  
13 subject to the activity that was the basis for the col-  
14 lection.”.

15 (c) EXTENSION OF AUTHORITY TO INVESTIGATE  
16 AND PROSECUTE RESIDENT ABUSE IN NON-MEDICAID  
17 BOARD AND CARE FACILITIES.—Section 1903(q)(4) of  
18 such Act (42 U.S.C. 1396b(q)(4)) is amended to read as  
19 follows:

20 “(4)(A) The entity has—

21 “(i) procedures for reviewing complaints of  
22 abuse or neglect of patients in health care fa-  
23 cilities which receive payments under the State  
24 plan under this title;

1           “(ii) at the option of the entity, procedures  
2           for reviewing complaints of abuse or neglect of  
3           patients residing in board and care facilities;  
4           and

5           “(iii) procedures for acting upon such com-  
6           plaints under the criminal laws of the State or  
7           for referring such complaints to other State  
8           agencies for action.

9           “(B) For purposes of this paragraph, the term  
10          ‘board and care facility’ means a residential setting  
11          which receives payment (regardless of whether such  
12          payment is made under the State plan under this  
13          title) from or on behalf of two or more unrelated  
14          adults who reside in such facility, and for whom one  
15          or both of the following is provided:

16               “(i) Nursing care services provided by, or  
17               under the supervision of, a registered nurse, li-  
18               censed practical nurse, or licensed nursing as-  
19               sistant.

20               “(ii) A substantial amount of personal care  
21               services that assist residents with the activities  
22               of daily living, including personal hygiene,  
23               dressing, bathing, eating, toileting, ambulation,  
24               transfer, positioning, self-medication, body care,

1 travel to medical services, essential shopping,  
2 meal preparation, laundry, and housework.”.

3 (d) EFFECTIVE DATE.—The amendments made by  
4 this section take effect on the date of enactment of this  
5 Act.

6 **SEC. 408. ELIMINATION OF FRAUD AND ABUSE ASSOCIATED**  
7 **WITH CERTAIN PAYMENTS UNDER THE MED-**  
8 **ICAID PROGRAM.**

9 (a) REQUIREMENTS FOR PAYMENTS.—Section  
10 1903(i) of the Social Security Act (42 U.S.C. 1396b(i))  
11 is amended—

12 (1) in paragraph (19), by striking the period at  
13 the end and inserting “; or”;

14 (2) by inserting after paragraph (19) the fol-  
15 lowing:

16 “(20) with respect to any amount expended for  
17 an item or service provided under the plan, or for  
18 any administrative expense incurred to carry out the  
19 plan, which is provided or incurred by, or on behalf  
20 of, a local educational agency or school district—

21 “(A) for which payment is made for a bun-  
22 dled group of individual items, services, and ad-  
23 ministrative expenses, unless payment for the  
24 grouped items, services, and administrative ex-

1           penses is made in accordance with a system  
2           that is approved by the Secretary and that—

3                   “(i) provides for an itemization to the  
4                   Secretary for assuring accountability of  
5                   cost of the grouped items, services, and ad-  
6                   ministrative expenses and includes pay-  
7                   ment rates and the methodologies under-  
8                   lying the establishment of such rates;

9                   “(ii) has an actuarially sound basis  
10                  for determining the payment rates and the  
11                  methodologies; and

12                  “(iii) reconciles payments for the  
13                  grouped items and services provided and  
14                  administrative expenses incurred under  
15                  this title with their cost; or

16                  “(B) for which payment is otherwise made  
17                  using a fee-for-service methodology, unless pay-  
18                  ment for the item, service, or administrative ex-  
19                  pense is made in accordance with a system that  
20                  is approved by the Secretary and that reim-  
21                  burses only for the cost of an item or service  
22                  provided and an administrative expense in-  
23                  curred that is reasonable and related to the cost  
24                  of providing or incurring such item, service, or  
25                  administrative expense or that is based on such

1 other tests of reasonableness as the Secretary  
2 prescribes in regulations; or

3 “(21) with respect to any transportation service  
4 provided by, or on behalf of, a local educational  
5 agency or school district for a child unless—

6 “(A) a medical need for transportation is  
7 noted in the individual education plan of the  
8 child, including a child residing in a geographic  
9 area within which school bus transportation is  
10 otherwise not provided;

11 “(B) the vehicle used to furnish such  
12 transportation service is specially equipped to  
13 accommodate individuals with special medical  
14 needs; and

15 “(C) the payment for such service—

16 “(i) is made only with respect to costs  
17 associated with transporting individuals  
18 whose medical needs require transport in  
19 such a vehicle; and

20 “(ii) reflects only the proportion of  
21 the transportation costs equal to—

22 “(I) the proportion of time spent  
23 by such individuals at such location in  
24 activities relating to the receipt of cov-  
25 ered services under this title; or

1                   “(II) such other proportion based  
2                   on an allocation method that the Sec-  
3                   retary finds reasonable in light of the  
4                   benefit to the program under this title  
5                   and consistent with the cost principles  
6                   contained in OMB Circular A-87; or

7                   “(22) with respect to any amount expended for  
8                   an item or service under the plan or for any admin-  
9                   istrative expense to carry out the plan provided by  
10                  a public agency that enters into a contract with an  
11                  entity for the development and operation of submit-  
12                  ting claims for such amount unless the agency—

13                  “(A) uses a competitive bidding process or  
14                  otherwise to contract with such entity at a rea-  
15                  sonable rate commensurate with the services  
16                  performed by such entity; and

17                  “(B) requires that any fees (including any  
18                  administrative fees) to be paid to the entity for  
19                  the development of the claims procedure are  
20                  identified as a non-contingent, specified dollar  
21                  amount in the contract.”; and

22                  (3) in the third sentence, by striking “(17), and  
23                  (18)” and inserting “(17), (18), (19), (20), and  
24                  (21)”.

1 (b) PROVISION OF ITEMS AND SERVICES THROUGH  
2 MEDICAID MANAGED CARE ORGANIZATIONS.—Section  
3 1903(m)(2)(A) of the Social Security Act (42 U.S.C.  
4 1396b(m)(2)(A)) is amended by redesignating clause (xi)  
5 (as added by section 4701(c)(3) of the Balanced Budget  
6 Act of 1997) as clause (xiii), by striking “and” at the end  
7 of clause (xi), and by inserting after clause (xi) the fol-  
8 lowing:

9 “(xii) such contract provides that with respect  
10 to payment for, and coverage of, such services in any  
11 case in which—

12 “(I) a medicaid managed care organization  
13 is responsible for providing such services to a  
14 child eligible for benefits under this title but  
15 coverage of services required under the child’s  
16 individual education plan is not included in the  
17 managed care contract but is the responsibility  
18 of the local educational agency or school district  
19 in the State; or

20 “(II) acute care services are available in  
21 the schools to children enrolled under such con-  
22 tract,

23 that there are assurances in the State plan and in  
24 the managed care contract that coordination exists  
25 between the local educational agency or school dis-

1       trict and the managed care plan to prevent duplica-  
2       tion of services or duplication of payments under  
3       this title for such services.”

4       (c) ALLOWABLE SHARE OF FFP WITH RESPECT TO  
5       PAYMENT FOR SERVICES FURNISHED IN SCHOOL SET-  
6       TING.—Section 1903 of the Social Security Act (42 U.S.C.  
7       1396b) is amended by adding at the end the following:

8       “(x) In the case of any Federal financial participation  
9       amount determined under subsection (a) with respect to  
10      any expenditure for an item or service under the plan, or  
11      for any administrative expense to carry out the plan,  
12      which is furnished by a local educational agency or school  
13      district, the State shall provide that—

14           “(1) 100 percent of such amount be paid to  
15           such agency or district, or

16           “(2) a percentage of such amount be retained  
17           by the State, but only to the extent such percentage  
18           does not exceed the percentage of such expenditure  
19           funded by State general revenue sources dedicated  
20           for such purpose.”

21      (d) UNIFORM METHODOLOGY FOR SCHOOL-BASED  
22      CLAIMS.—Not later than 90 days after the date of enact-  
23      ment of this Act, the Administrator of the Health Care  
24      Financing Administration, in consultation with State med-  
25      icaid and educational agencies and local school systems,



1 shall develop and implement a uniform methodology for  
2 claims for payment of medical assistance and related ad-  
3 ministrative expenses furnished under title XIX of the So-  
4 cial Security Act by schools. Such methodology for admin-  
5 istrative expenses shall be based on standards related to  
6 time studies and population estimates and a national  
7 standard for determining payment for such administrative  
8 expenses.

9 (e) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to items and services provided on  
11 and after the date of enactment of this Act, without regard  
12 to whether implementing regulations are in effect. The  
13 Secretary of Health and Human Services shall promulgate  
14 such final regulations as are necessary to carry out such  
15 amendments not later than 1 year after such date of en-  
16 actment.

○



TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT  
ACT OF 1999

OCTOBER 18, 1999.—Ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3070]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3070) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend health care coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.—

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Ticket to Work and Work Incentives Improvement Act of 1999”.

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

Sec. 1. Short title; table of contents.

**TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS**

**Subtitle A—Ticket to Work and Self-Sufficiency**

Sec. 101. Establishment of the Ticket to Work and Self-Sufficiency Program.

**Subtitle B—Elimination of Work Disincentives**

Sec. 111. Work activity standard as a basis for review of an individual's disabled status.

Sec. 112. Expedited reinstatement of disability benefits.

**Subtitle C—Work Incentives Planning, Assistance, and Outreach**

Sec. 121. Work incentives outreach program.

Sec. 122. State grants for work incentives assistance to disabled beneficiaries.

## TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES

- Sec. 201. Expanding State options under the medicaid program for workers with disabilities.  
 Sec. 202. Extending medicare coverage for OASDI disability benefit recipients.  
 Sec. 203. Grants to develop and establish State infrastructures to support working individuals with disabilities.  
 Sec. 204. Demonstration of coverage under the medicaid program of workers with potentially severe disabilities.  
 Sec. 205. Election by disabled beneficiaries to suspend medigap insurance when covered under a group health plan.

## TITLE III—DEMONSTRATION PROJECTS AND STUDIES

- Sec. 301. Extension of disability insurance program demonstration project authority.  
 Sec. 302. Demonstration projects providing for reductions in disability insurance benefits based on earnings.  
 Sec. 303. Studies and reports.

## TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

- Sec. 401. Technical amendments relating to drug addicts and alcoholics.  
 Sec. 402. Treatment of prisoners.  
 Sec. 403. Revocation by members of the clergy of exemption from social security coverage.  
 Sec. 404. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.  
 Sec. 405. Authorization for State to permit annual wage reports.  
 Sec. 406. Assessment on attorneys who receive their fees via the Social Security Administration.  
 Sec. 407. Extension of authority of State medicaid fraud control units.  
 Sec. 408. Elimination of fraud and abuse associated with certain payments under the medicaid program.

## TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS

### Subtitle A—Ticket to Work and Self-Sufficiency

## SEC. 101. ESTABLISHMENT OF THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding after section 1147 (as added by section 8 of the Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998 (Public Law 105-306; 112 Stat. 2928)) the following:

## “THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

“SEC. 1148. (a) IN GENERAL.—The Commissioner of Social Security shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

## “(b) TICKET SYSTEM.—

“(1) DISTRIBUTION OF TICKETS.—The Commissioner of Social Security may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

“(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

“(3) TICKET TERMS.—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

“(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

## “(c) STATE PARTICIPATION.—

“(1) IN GENERAL.—Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 may elect to participate in the Program as an employment network with respect to a disabled beneficiary. If the State agency does elect to participate in the Program, the State agency also shall elect to be paid under the outcome payment system or the outcome-milestone payment system in accordance with

subsection (h)(1). With respect to a disabled beneficiary that the State agency does not elect to have participate in the Program, the State agency shall be paid for services provided to that beneficiary under the system for payment applicable under section 222(d) and subsections (d) and (e) of section 1615. The Commissioner shall provide for periodic opportunities for exercising such elections.

"(2) EFFECT OF PARTICIPATION BY STATE AGENCY.—

"(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in paragraph (1) elects under that paragraph to participate in the Program, the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973.

"(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

"(3) AGREEMENTS BETWEEN STATE AGENCIES AND EMPLOYMENT NETWORKS.—State agencies and employment networks shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an employment network to a State agency for services. The Commissioner of Social Security shall establish by regulations the timeframe within which such agreements must be entered into and the mechanisms for dispute resolution between State agencies and employment networks with respect to such agreements.

"(d) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

"(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner of Social Security shall enter into agreements with 1 or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

"(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include—

"(A) measures for ease of access by beneficiaries to services; and

"(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

"(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

"(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement; and

"(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

"(4) SELECTION OF EMPLOYMENT NETWORKS.—

"(A) IN GENERAL.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

"(B) ALTERNATE PARTICIPANTS.—In any State where the Program is being implemented, the Commissioner shall enter into an agreement with any alternate participant that is operating under the authority of section 222(d)(2) in the State as of the date of enactment of this section and chooses to serve as an employment network under the Program.

"(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

"(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall solicit and consider the views of consumers and the program manager under which the em-

ployment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure that the periodic surveys of beneficiaries receiving services under the Program are designed to measure customer service satisfaction.

"(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

"(e) PROGRAM MANAGERS.—

"(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

"(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

"(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks without being deemed to have rejected services under the Program. When such a change occurs, the program manager shall reassign the ticket based on the choice of the beneficiary. Upon the request of the employment network, the program manager shall make a determination of the allocation of the outcome or milestone-outcome payments based on the services provided by each employment network. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible formats.

"(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

"(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Services provided under the Program may include case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are available in each service area.

"(f) EMPLOYMENT NETWORKS.—

"(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—

"(A) IN GENERAL.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, that assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b).

"(B) ONE-STOP DELIVERY SYSTEMS.—An employment network serving under the Program may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998.

"(C) COMPLIANCE WITH SELECTION CRITERIA.—No employment network may serve under the Program unless it meets and maintains compliance with both general selection criteria (such as professional and educational qualifications, where applicable) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports).

"(D) SINGLE OR ASSOCIATED PROVIDERS ALLOWED.—An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

"(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

"(A) serve prescribed service areas; and

"(B) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans meeting the requirements of subsection (g).

"(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

"(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

"(g) INDIVIDUAL WORK PLANS.—

"(1) REQUIREMENTS.—Each employment network shall—

"(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subparagraph (C);

"(B) develop and implement each such individual work plan, in partnership with each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal;

"(C) ensure that each individual work plan includes at least—

"(i) a statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;

"(ii) a statement of the services and supports that have been deemed necessary for the beneficiary to accomplish that goal;

"(iii) a statement of any terms and conditions related to the provision of such services and supports; and

"(iv) a statement of understanding regarding the beneficiary's rights under the Program (such as the right to retrieve the ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network) and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grant program authorized under section 1150;

"(D) provide a beneficiary the opportunity to amend the individual work plan if a change in circumstances necessitates a change in the plan; and



"(E) make each beneficiary's individual work plan available to the beneficiary in, as appropriate, an accessible format chosen by the beneficiary.

"(2) EFFECTIVE UPON WRITTEN APPROVAL.—A beneficiary's individual work plan shall take effect upon written approval by the beneficiary or a representative of the beneficiary and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary's ticket to work and self-sufficiency.

"(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

"(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

"(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

"(B) NO CHANGE IN METHOD OF PAYMENT FOR BENEFICIARIES WITH TICKETS ALREADY ASSIGNED TO THE EMPLOYMENT NETWORKS.—Any election of a payment system by an employment network that would result in a change in the method of payment to the employment network for services provided to a beneficiary who is receiving services from the employment network at the time of the election shall not be effective with respect to payment for services provided to that beneficiary and the method of payment previously selected shall continue to apply with respect to such services.

"(2) OUTCOME PAYMENT SYSTEM.—

"(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual because of work or earnings.

"(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

"(i) the payment for each month during the outcome payment period for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

"(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

"(3) OUTCOME-MILESTONE PAYMENT SYSTEM.—

"(A) IN GENERAL.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure that provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

"(C) LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

"(4) DEFINITIONS.—In this subsection:

"(A) PAYMENT CALCULATION BASE.—The term 'payment calculation base' means, for any calendar year—

“(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year; and

“(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 18 years of age but have not attained 65 years of age.

“(B) OUTCOME PAYMENT PERIOD.—The term ‘outcome payment period’ means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

“(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity; and

“(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity.

“(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

“(A) PERCENTAGES AND PERIODS.—The Commissioner shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner’s review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

“(B) NUMBER AND AMOUNT OF MILESTONE PAYMENTS.—The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, or other reliable sources.

“(C) REPORT ON THE ADEQUACY OF INCENTIVES.—The Commissioner shall submit to Congress not later than 36 months after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999 a report with recommendations for a method or methods to adjust payment rates under subparagraphs (A) and (B), that would ensure adequate incentives for the provision of services by employment networks of—

“(i) individuals with a need for ongoing support and services;

“(ii) individuals with a need for high-cost accommodations;

“(iii) individuals who earn a subminimum wage; and

“(iv) individuals who work and receive partial cash benefits.

The Commissioner shall consult with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 during the development and evaluation of the study. The Commissioner shall implement the necessary adjusted payment rates prior to full implementation of the Ticket to Work and Self-Sufficiency Program.

"(i) **SUSPENSION OF DISABILITY REVIEWS.**—During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.

"(j) **AUTHORIZATIONS.**—

"(1) **PAYMENTS TO EMPLOYMENT NETWORKS.**—

"(A) **TITLE II DISABILITY BENEFICIARIES.**—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to make payments to employment networks under this section. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund.

"(B) **TITLE XVI DISABILITY BENEFICIARIES.**—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

"(2) **ADMINISTRATIVE EXPENSES.**—The costs of administering this section (other than payments to employment networks) shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among such amounts as appropriate.

"(k) **DEFINITIONS.**—In this section:

"(1) **COMMISSIONER.**—The term 'Commissioner' means the Commissioner of Social Security.

"(2) **DISABLED BENEFICIARY.**—The term 'disabled beneficiary' means a title II disability beneficiary or a title XVI disability beneficiary.

"(3) **TITLE II DISABILITY BENEFICIARY.**—The term 'title II disability beneficiary' means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

"(4) **TITLE XVI DISABILITY BENEFICIARY.**—The term 'title XVI disability beneficiary' means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

"(5) **SUPPLEMENTAL SECURITY INCOME BENEFIT.**—The term 'supplemental security income benefit under title XVI' means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

"(l) **REGULATIONS.**—Not later than 1 year after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999, the Commissioner shall prescribe such regulations as are necessary to carry out the provisions of this section."

(b) **CONFORMING AMENDMENTS.**—

(1) **AMENDMENTS TO TITLE II.**—

(A) Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) is amended by adding at the end the following:

"(5) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i)."

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking "a program of vocational rehabilitation services" and inserting "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services".

(2) **AMENDMENTS TO TITLE XVI.**—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

"SEC. 1615. (a) In the case of any blind or disabled individual who—

"(1) has not attained age 16; and

"(2) with respect to whom benefits are paid under this title,  
the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V."

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking "a program of vocational rehabilitation services" and inserting "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services".

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting "(1)" after "(c)"; and

(ii) by adding at the end the following:

"(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i)."

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following 1 year after the date of the enactment of this Act.

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) REQUIREMENTS.—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) FULL IMPLEMENTATION.—The Commissioner shall ensure that ability to provide tickets and services to individuals under the Program exists in every State as soon as practicable on or after the effective date specified in subsection (c) but not later than 3 years after such date.

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall design and conduct a series of evaluations to assess the cost-effectiveness of activities carried out under this section and the amendments made thereby, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) CONSULTATION.—The Commissioner shall design and carry out the series of evaluations after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program and consulting with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f), the Comptroller General of the United States, other agencies of the Federal Government, and private organizations with appropriate expertise.

(C) METHODOLOGY.—

(i) IMPLEMENTATION.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f), shall ensure that plans for evaluations and data collection methods under the Program are appropriately designed to obtain detailed employment information.

(ii) SPECIFIC MATTERS TO BE ADDRESSED.—Each such evaluation shall address (but is not limited to)—

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of individuals in possession of tickets under the Program who are not accepted for services and, to the extent reasonably determinable, the reasons for which such beneficiaries were not accepted for services;

(VII) the characteristics of providers whose services are provided within an employment network under the Program;

(VIII) the extent (if any) to which employment networks display a greater willingness to provide services to beneficiaries with a range of disabilities;

(IX) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(X) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(XI) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of their tickets.

(D) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

(A) IN GENERAL.—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) for prompt referrals to a State agency; and

(ii) the authority of the Commissioner under section 222(d)(2) of the Social Security Act to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals,

shall apply in such State.

(B) EXISTING AGREEMENTS.—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to serv-

ices (if any) to be provided after 3 years after the effective date provided in subsection (c).

(e) SPECIFIC REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.—The matters which shall be addressed in such regulations shall include—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1148(b)(1) of the Social Security Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of such Act and provision for periodic opportunities for exercising such elections;

(D) the status of State agencies under section 1148(c)(1) of such Act at the time that State agencies exercise elections under that section;

(E) the terms of agreements to be entered into with program managers pursuant to section 1148(d) of such Act, including—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1148(d)(3) of such Act;

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1148(d) of such Act and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1148(e) of such Act; and

(iii) the format under which dispute resolution will operate under section 1148(d)(7) of such Act;

(F) the terms of agreements to be entered into with employment networks pursuant to section 1148(d)(4) of such Act, including—

(i) the manner in which service areas are specified pursuant to section 1148(f)(2)(A) of such Act;

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1148(f)(1)(C) of such Act in selecting service providers;

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1148(f)(3) of such Act; and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1148(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1148(g) of such Act;

(H) standards which must be met by payment systems required under section 1148(h) of such Act, including—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1148(h)(1)(A) of such Act;

(ii) the terms which must be met by an outcome payment system under section 1148(h)(2) of such Act;

(iii) the terms which must be met by an outcome-milestone payment system under section 1148(h)(3) of such Act;

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1148(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1148(h) of such Act; and

(v) annual oversight procedures for such systems; and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(f) THE TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established within the Social Security Administration a panel to be known as the "Ticket to Work and Work Incentives Advisory Panel" (in this subsection referred to as the "Panel").

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the President, the Congress, and the Commissioner of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act (42

U.S.C. 401 et seq., 1301 et seq., 1381 et seq., 1395 et seq., 1396 et seq.); and

(B) with respect to the Ticket to Work and Self-Sufficiency Program established under section 1148 of such Act—

(i) advise the Commissioner of Social Security with respect to establishing phase-in sites for such Program and fully implementing the Program thereafter, the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems, and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program;

(ii) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to section 302 of this Act;

(iii) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1148(d)(6) of the Social Security Act; and

(iv) furnish progress reports on the Program to the Commissioner and each House of Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 12 members as follows:

(i) 4 members appointed by the President, not more than 2 of whom may be of the same political party;

(ii) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives;

(iii) 2 members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Committee on Ways and Means of the House of Representatives;

(iv) 2 members appointed by the majority leader of the Senate, in consultation with the Chairman of the Committee on Finance of the Senate; and

(v) 2 members appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Finance of the Senate.

(B) REPRESENTATION.—Of the members appointed under subparagraph (A), at least 8 shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services, of whom—

(i) at least 2 shall represent the interests of recipients of employment services, vocational rehabilitation services, and other support services;

(ii) at least 2 shall represent the interests of providers of employment services, vocational rehabilitation services, and other support services;

(iii) at least 2 shall represent the interests of private employers; and

(iv) at least 2 shall represent the interests of employees.

At least  $\frac{1}{2}$  of the members described in each clause of subparagraph (A) shall be individuals with disabilities, or representatives of individuals with disabilities, with consideration to current or former title II disability beneficiaries or title XVI disability beneficiaries (as such terms are defined in section 1148(k) of the Social Security Act (as added by subsection (a)).

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

(I)  $\frac{1}{2}$  of the members appointed under subparagraph (A) shall be appointed for a term of 2 years; and

(II) the remaining members appointed under subparagraph (A) shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until

a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) BASIC PAY.—Members shall each be paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) QUORUM.—8 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—

(A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Panel, and paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) STAFF.—Subject to rules prescribed by the Commissioner of Social Security, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commissioner of Social Security, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) REPORTS.—

(A) INTERIM REPORTS.—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) FINAL REPORT.—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) TERMINATION.—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

## Subtitle B—Elimination of Work Disincentives

### SEC. 111. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS.

(a) IN GENERAL.—Section 221 of the Social Security Act (42 U.S.C. 421) is amended by adding at the end the following:

“(m)(1) In any case where an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)) has received such benefits for at least 24 months—



- “(A) no continuing disability review conducted by the Commissioner may be scheduled for the individual solely as a result of the individual’s work activity;  
 “(B) no work activity engaged in by the individual may be used as evidence that the individual is no longer disabled; and  
 “(C) no cessation of work activity by the individual may give rise to a presumption that the individual is unable to engage in work.”
- “(2) An individual to which paragraph (1) applies shall continue to be subject to—  
 “(A) continuing disability reviews on a regularly scheduled basis that is not triggered by work; and  
 “(B) termination of benefits under this title in the event that the individual has earnings that exceed the level of earnings established by the Commissioner to represent substantial gainful activity.”
- (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2003.

**SEC. 112. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS.**

(a) OASDI BENEFITS.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

- (1) by redesignating subsection (i) as subsection (j); and  
 (2) by inserting after subsection (h) the following:

“Reinstatement of Entitlement

“(i)(1)(A) Entitlement to benefits described in subparagraph (B)(i)(I) shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of such entitlement shall be in accordance with the terms of this subsection.

“(B) An individual is described in this subparagraph if—

“(i) prior to the month in which the individual files a request for reinstatement—

“(I) the individual was entitled to benefits under this section or section 202 on the basis of disability pursuant to an application filed therefor; and

“(II) such entitlement terminated due to the performance of substantial gainful activity;

“(ii) the individual is under a disability and the physical or mental impairment that is the basis for the finding of disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of disability that gave rise to the entitlement described in clause (i); and

“(iii) the individual’s disability renders the individual unable to perform substantial gainful activity.

“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was entitled to a benefit described in subparagraph (B)(i)(I) prior to the entitlement termination described in subparagraph (B)(i)(II).

“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) and (iii) of paragraph (1)(B).

“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not entitled to reinstated benefits under this subsection.

“(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of subsection (f) shall apply.

“(4)(A)(i) Subject to clause (ii), entitlement to benefits reinstated under this subsection shall commence with the benefit payable for the month in which a request for reinstatement is filed.

“(ii) An individual whose entitlement to a benefit for any month would have been reinstated under this subsection had the individual filed a request for reinstatement before the end of such month shall be entitled to such benefit for such month if such request for reinstatement is filed before the end of the twelfth month immediately succeeding such month.

"(B)(i) Subject to clauses (ii) and (iii), the amount of the benefit payable for any month pursuant to the reinstatement of entitlement under this subsection shall be determined in accordance with the provisions of this title.

"(ii) For purposes of computing the primary insurance amount of an individual whose entitlement to benefits under this section is reinstated under this subsection, the date of onset of the individual's disability shall be the date of onset used in determining the individual's most recent period of disability arising in connection with such benefits payable on the basis of an application.

"(iii) Benefits under this section or section 202 payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

"(C) No benefit shall be payable pursuant to an entitlement reinstated under this subsection to an individual for any month in which the individual engages in substantial gainful activity.

"(D) The entitlement of any individual that is reinstated under this subsection shall end with the benefits payable for the month preceding whichever of the following months is the earliest:

"(i) The month in which the individual dies.

"(ii) The month in which the individual attains retirement age.

"(iii) The third month following the month in which the individual's disability ceases.

"(5) Whenever an individual's entitlement to benefits under this section is reinstated under this subsection, entitlement to benefits payable on the basis of such individual's wages and self-employment income may be reinstated with respect to any person previously entitled to such benefits on the basis of an application if the Commissioner determines that such person satisfies all the requirements for entitlement to such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated entitlement of any such person to the same extent that they apply to the reinstated entitlement of such individual.

"(6) An individual to whom benefits are payable under this section or section 202 pursuant to a reinstatement of entitlement under this subsection for 24 months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) and the determination, if appropriate, of the termination month in accordance with subsection (a)(1) of this section, or subsection (d)(1), (e)(1), or (f)(1) of section 202, to be entitled to such benefits on the basis of an application filed therefor.

"(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be entitled to provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under subsection (b) or (g) of section 205.

"(B) The amount of a provisional benefit for a month shall equal the amount of the last monthly benefit payable to the individual under this title on the basis of an application increased by an amount equal to the amount, if any, by which such last monthly benefit would have been increased as a result of the operation of section 215(i).

"(C)(i) Provisional benefits shall begin with the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

"(ii) Provisional benefits shall end with the earliest of—

"(I) the month in which the Commissioner makes a determination regarding the individual's entitlement to reinstated benefits;

"(II) the fifth month following the month described in clause (i);

"(III) the month in which the individual performs substantial gainful activity;

or

"(IV) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

"(D) In any case in which the Commissioner determines that an individual is not entitled to reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B)."

(b) SSI BENEFITS.—

(1) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following:

“Reinstatement of Eligibility on the Basis of Blindness or Disability

“(p)(1)(A) Eligibility for benefits under this title shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of eligibility shall be in accordance with the terms of this subsection.

“(B) An individual is described in this subparagraph if—

“(i) prior to the month in which the individual files a request for reinstatement—

“(I) the individual was eligible for benefits under this title on the basis of blindness or disability pursuant to an application filed therefor; and

“(II) the individual thereafter was ineligible for such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;

“(ii) the individual is blind or disabled and the physical or mental impairment that is the basis for the finding of blindness or disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of blindness or disability that gave rise to the eligibility described in clause (i);

“(iii) the individual’s blindness or disability renders the individual unable to perform substantial gainful activity; and

“(iv) the individual satisfies the nonmedical requirements for eligibility for benefits under this title.

“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was eligible for a benefit under this title (including section 1619) prior to the period of ineligibility described in subparagraph (B)(i)(II).

“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

“(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

“(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) through (iv) of paragraph (1)(B).

“(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this subsection.

“(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of section 1614(a)(4) shall apply.

“(4)(A) Eligibility for benefits reinstated under this subsection shall commence with the benefit payable for the month following the month in which a request for reinstatement is filed.

“(B)(i) Subject to clause (ii), the amount of the benefit payable for any month pursuant to the reinstatement of eligibility under this subsection shall be determined in accordance with the provisions of this title.

“(ii) The benefit under this title payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

“(C) Except as otherwise provided in this subsection, eligibility for benefits under this title reinstated pursuant to a request filed under paragraph (2) shall be subject to the same terms and conditions as eligibility established pursuant to an application filed therefor.

“(5) Whenever an individual’s eligibility for benefits under this title is reinstated under this subsection, eligibility for such benefits shall be reinstated with respect to the individual’s spouse if such spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements for eligibility for such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.

"(6) An individual to whom benefits are payable under this title pursuant to a reinstatement of eligibility under this subsection for twenty-four months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) to be eligible for such benefits on the basis of an application filed therefor.

"(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c).

"(B)(i) Except as otherwise provided in clause (ii), the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual under this title with the same kind and amount of income.

"(ii) If the individual has a spouse who was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements of section 1614(b) except requirements related to the filing of an application, the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual and eligible spouse under this title with the same kind and amount of income.

"(C)(i) Provisional benefits shall begin with the month following the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

"(ii) Provisional benefits shall end with the earliest of—

"(I) the month in which the Commissioner makes a determination regarding the individual's eligibility for reinstated benefits;

"(II) the fifth month following the month for which provisional benefits are first payable under clause (i); or

"(III) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

"(D) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

"(8) For purposes of this subsection other than paragraph (7), the term 'benefits under this title' includes State supplementary payments made pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66."

(2) CONFORMING AMENDMENTS.—

(A) Section 1631(j)(1) of such Act (42 U.S.C. 1383(j)(1)) is amended by striking the period and inserting ", or has filed a request for reinstatement of eligibility under subsection (p)(2) and been determined to be eligible for reinstatement."

(B) Section 1631(j)(2)(A)(i)(I) of such Act (42 U.S.C. 1383(j)(2)(A)(i)(I)) is amended by inserting "(other than pursuant to a request for reinstatement under subsection (p))" after "eligible".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of enactment of this Act.

(2) LIMITATION.—No benefit shall be payable under title II or XVI on the basis of a request for reinstatement filed under section 223(i) or 1631(p) of the Social Security Act before the effective date described in paragraph (1).

## Subtitle C—Work Incentives Planning, Assistance, and Outreach

### SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 101, is amended by adding after section 1148 the following:

#### "WORK INCENTIVES OUTREACH PROGRAM

"SEC. 1149. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, shall establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to disabled beneficiaries on work incentives programs and issues related to such programs."

"(2) GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND OUTREACH.—Under the program established under this section, the Commissioner shall—

"(A) establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148, the program established under section 1619, and other programs that are designed to encourage disabled beneficiaries to work;

"(B) conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts to disabled beneficiaries (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist disabled beneficiaries to work, including—

"(i) preparing and disseminating information explaining such programs; and

"(ii) working in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve disabled beneficiaries, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling;

"(C) establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will specialize in disability work incentives under titles II and XVI for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to—

"(i) disabled beneficiaries;

"(ii) benefit applicants under titles II and XVI; and

"(iii) individuals or entities awarded grants under subparagraphs (A) or (B); and

"(D) provide—

"(i) training for work incentives specialists and individuals providing planning assistance described in subparagraph (C); and

"(ii) technical assistance to organizations and entities that are designed to encourage disabled beneficiaries to return to work.

"(3) COORDINATION WITH OTHER PROGRAMS.—The responsibilities of the Commissioner established under this section shall be coordinated with other public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for disabled beneficiaries including the program under section 1619, the plans for achieving self-support program (PASS), and any other Federal or State work incentives programs that are designed to assist disabled beneficiaries, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998, and other services.

"(b) CONDITIONS.—

"(1) SELECTION OF ENTITIES.—

"(A) APPLICATION.—An entity shall submit an application for a grant, cooperative agreement, or contract to provide benefits planning and assistance to the Commissioner at such time, in such manner, and containing such information as the Commissioner may determine is necessary to meet the requirements of this section.

"(B) STATEWIDENESS.—The Commissioner shall ensure that the planning, assistance, and information described in paragraph (2) shall be available on a statewide basis.

"(C) ELIGIBILITY OF STATES AND PRIVATE ORGANIZATIONS.—

"(i) IN GENERAL.—The Commissioner may award a grant, cooperative agreement, or contract under this section to a State or a private agency or organization (other than Social Security Administration Field Offices and the State agency administering the State medicaid program under title XIX, including any agency or entity described in clause (ii), that

the Commissioner determines is qualified to provide the planning, assistance, and information described in paragraph (2)).

"(ii) AGENCIES AND ENTITIES DESCRIBED.—The agencies and entities described in this clause are the following:

"(I) Any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973, protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973, and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the Commissioner determines satisfies the requirements of this section.

"(II) The State agency administering the State program funded under part A of title IV.

"(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to any entity that the Commissioner determines would have a conflict of interest if the entity were to receive a grant, cooperative agreement, or contract under this section.

"(2) SERVICES PROVIDED.—A recipient of a grant, cooperative agreement, or contract to provide benefits planning and assistance shall select individuals who will act as planners and provide information, guidance, and planning to disabled beneficiaries on the—

"(A) availability and interrelation of any Federal or State work incentives programs designed to assist disabled beneficiaries that the individual may be eligible to participate in;

"(B) adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health benefits coverage may be available to the individual; and

"(C) availability of protection and advocacy services for disabled beneficiaries and how to access such services.

"(3) AMOUNT OF GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—

"(A) BASED ON POPULATION OF DISABLED BENEFICIARIES.—Subject to subparagraph (B), the Commissioner shall award a grant, cooperative agreement, or contract under this section to an entity based on the percentage of the population of the State where the entity is located who are disabled beneficiaries.

"(B) LIMITATIONS.—

"(i) PER GRANT.—No entity shall receive a grant, cooperative agreement, or contract under this section for a fiscal year that is less than \$50,000 or more than \$300,000.

"(ii) TOTAL AMOUNT FOR ALL GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed \$23,000,000.

"(4) ALLOCATION OF COSTS.—The costs of carrying out this section shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

"(c) DEFINITIONS.—In this section:

"(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

"(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' has the meaning given that term in section 1148(k)(2).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$23,000,000 for each of the fiscal years 2000 through 2004."

**SEC. 122. STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES.**

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 121, is amended by adding after section 1149 the following:

**"STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES**

"SEC. 1150. (a) IN GENERAL.—Subject to subsection (c), the Commissioner may make payments in each State to the protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) for the purpose of providing services to disabled beneficiaries.

“(b) SERVICES PROVIDED.—Services provided to disabled beneficiaries pursuant to a payment made under this section may include—

- “(1) information and advice about obtaining vocational rehabilitation and employment services; and
- “(2) advocacy or other services that a disabled beneficiary may need to secure or regain gainful employment.

“(c) APPLICATION.—In order to receive payments under this section, a protection and advocacy system shall submit an application to the Commissioner, at such time, in such form and manner, and accompanied by such information and assurances as the Commissioner may require.

“(d) AMOUNT OF PAYMENTS.—

“(1) IN GENERAL.—Subject to the amount appropriated for a fiscal year for making payments under this section, a protection and advocacy system shall not be paid an amount that is less than—

“(A) in the case of a protection and advocacy system located in a State (including the District of Columbia and Puerto Rico) other than Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the greater of—

“(i) \$100,000; or

“(ii)  $\frac{1}{3}$  of 1 percent of the amount available for payments under this section; and

“(B) in the case of a protection and advocacy system located in Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, \$50,000.

“(2) INFLATION ADJUSTMENT.—For each fiscal year in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section in the preceding fiscal year, the Commissioner shall increase each minimum payment under subparagraphs (A) and (B) of paragraph (1) by a percentage equal to the percentage increase in the total amount so appropriated to carry out this section.

“(e) ANNUAL REPORT.—Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Commissioner and the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 on the services provided to individuals by the system.

“(f) FUNDING.—

“(1) ALLOCATION OF PAYMENTS.—Payments under this section shall be made from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

“(2) CARRYOVER.—Any amounts allotted for payment to a protection and advocacy system under this section for a fiscal year shall remain available for payment to or on behalf of the protection and advocacy system until the end of the succeeding fiscal year.

“(g) DEFINITIONS.—In this section:

“(1) COMMISSIONER.—The term ‘Commissioner’ means the Commissioner of Social Security.

“(2) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ has the meaning given that term in section 1148(k)(2).

“(3) PROTECTION AND ADVOCACY SYSTEM.—The term ‘protection and advocacy system’ means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.).

“(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$7,000,000 for each of the fiscal years 2000 through 2004.”.

## TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES

### SEC. 201. EXPANDING STATE OPTIONS UNDER THE MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES.

(a) IN GENERAL.—

(1) STATE OPTION TO ELIMINATE INCOME, ASSETS, AND RESOURCE LIMITATIONS FOR WORKERS WITH DISABILITIES BUYING INTO MEDICAID.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

- (A) in subclause (XIII), by striking "or" at the end;
- (B) in subclause (XIV), by adding "or" at the end; and
- (C) by adding at the end the following:

"(XV) who, but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income, who is at least 16, but less than 65, years of age, and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish;"

(2) STATE OPTION TO PROVIDE OPPORTUNITY FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY TO BUY INTO MEDICAID.—

(A) ELIGIBILITY.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1), is amended—

- (i) in subclause (XIV), by striking "or" at the end;
- (ii) in subclause (XV), by adding "or" at the end; and
- (iii) by adding at the end the following:

"(XVI) who are employed individuals with a medically improved disability described in section 1905(v)(1) and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish, but only if the State provides medical assistance to individuals described in subclause (XV);"

(B) DEFINITION OF EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following:

"(v)(1) The term 'employed individual with a medically improved disability' means an individual who—

"(A) is at least 16, but less than 65, years of age;

"(B) is employed (as defined in paragraph (2));

"(C) ceases to be eligible for medical assistance under section 1902(a)(10)(A)(ii)(XV) because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits under section 223(d) or 1614(a)(3); and

"(D) continues to have a severe medically determinable impairment, as determined under regulations of the Secretary.

"(2) For purposes of paragraph (1), an individual is considered to be 'employed' if the individual—

"(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

"(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined by the State and approved by the Secretary."

(C) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

- (i) in clause (x), by striking "or" at the end;
- (ii) in clause (xi), by adding "or" at the end; and
- (iii) by inserting after clause (xi), the following:

"(xii) employed individuals with a medically improved disability (as defined in subsection (v)),"

(3) STATE AUTHORITY TO IMPOSE INCOME-RELATED PREMIUMS AND COST-SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking "The State plan" and inserting "Subject to subsection (g), the State plan"; and

(B) by adding at the end the following:

"(g) With respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii)—

"(1) a State may (in a uniform manner for individuals described in either such subclause)—

"(A) require such individuals to pay premiums or other cost-sharing charges set on a sliding scale based on income that the State may determine; and

"(B) require payment of 100 percent of such premiums or charges for a year in the case of such an individual who has income for such year that exceeds 250 percent of the income official poverty line (referred to in subsection (c)(1)) applicable to a family of the size involved, except that, in the case of such an individual who has income for a year that does not exceed



450 percent of such poverty line, such requirement may apply only to the extent that such premiums do not exceed 7.5 percent of such income; and  
 "(2) a State shall require payment of 100 percent of such premium for a year by such an individual whose adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for such year exceeds \$75,000, except that a State may choose to subsidize such premium by using State funds which may not be federally matched under this title.

The Secretary shall adjust annually (after 2000) the dollar amount set forth in paragraph (2) 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."

(4) PROHIBITION AGAINST SUPPLANTATION OF STATE FUNDS AND STATE FAILURE TO MAINTAIN EFFORT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (18) and inserting "; or"; and

(B) by inserting after such paragraph the following:

"(19) with respect to amounts expended for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) for a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the level of State funds expended for such fiscal year for programs to enable working individuals with disabilities to work (other than for such medical assistance) is not less than the level expended for such programs during the most recent State fiscal year ending before the date of enactment of this paragraph."

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended in the matter preceding subparagraph (A) by inserting "1902(a)(10)(A)(ii)(XV), 1902(a)(10)(A)(ii)(XVI)" after "1902(a)(10)(A)(ii)(X),".

(2) Section 1903(f)(4) of such Act, as amended by paragraph (1), is amended by inserting "1902(a)(10)(A)(ii)(XIII)," before "1902(a)(10)(A)(ii)(XV)".

(c) GAO REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the amendments made by this section that examines—

(1) the extent to which higher health care costs for individuals with disabilities at higher income levels deter employment or progress with employment;

(2) whether such individuals have health insurance coverage or could benefit from the State option established under such amendments to provide a medicaid buy-in; and

(3) how the States are exercising such option, including—

(A) how such States are exercising the flexibility afforded them with regard to income disregards;

(B) what income and premium levels have been set;

(C) the degree to which States are subsidizing premiums above the dollar amount specified in section 1916(g)(2) of the Social Security Act (42 U.S.C. 1396o(g)(2)); and

(D) the extent to which there exists any crowd-out effect.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 1999.

(2) RETROACTIVITY OF CONFORMING AMENDMENT.—The amendment made by subsection (b)(2) takes effect as if included in the enactment of the Balanced Budget Act of 1997.

SEC. 202. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS.

(a) IN GENERAL.—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended by striking "24" and inserting "96".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 2000.

(c) GAO REPORT.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress that—

(1) examines the effectiveness and cost of the amendment made by subsection

(a);

(2) examines the necessity and effectiveness of providing continuation of medicare coverage under section 226(b) of the Social Security Act to individuals

whose annual income exceeds the contribution and benefit base (as determined under section 230 of such Act);

(3) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a sliding scale premium for individuals whose annual income exceeds such contribution and benefit base;

(4) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a premium buy-in by the beneficiary's employer in lieu of coverage under private health insurance;

(5) examines the interrelation between the use of the continuation of medicare coverage under such section 226(b) and the use of private health insurance coverage by individuals during the extended period; and

(6) recommends such legislative or administrative changes relating to the continuation of medicare coverage for recipients of social security disability benefits as the Comptroller General determines are appropriate.

**SEC. 203. GRANTS TO DEVELOP AND ESTABLISH STATE INFRASTRUCTURES TO SUPPORT WORKING INDIVIDUALS WITH DISABILITIES.**

**(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall award grants described in subsection (b) to States to support the design, establishment, and operation of State infrastructures that provide items and services to support working individuals with disabilities.

(2) **APPLICATION.**—In order to be eligible for an award of a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

(3) **DEFINITION OF STATE.**—In this section, the term "State" means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(b) GRANTS FOR INFRASTRUCTURE AND OUTREACH.—**

(1) **IN GENERAL.**—Out of the funds appropriated under subsection (e), the Secretary shall award grants to States to—

(A) support the establishment, implementation, and operation of the State infrastructures described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such infrastructures.

**(2) ELIGIBILITY FOR GRANTS.—**

(A) **IN GENERAL.**—No State may receive a grant under this subsection unless the State—

(i) has an approved amendment to the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) that provides medical assistance under such plan to individuals described in section 1902(a)(10)(A)(ii)(XV) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XV)); and

(ii) demonstrates to the satisfaction of the Secretary that the State makes personal assistance services available under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to the extent necessary to enable individuals described in clause (i) to remain employed (as determined under section 1905(v)(2) of the Social Security Act (42 U.S.C. 1396d(v)(2))).

(B) **DEFINITION OF PERSONAL ASSISTANCE SERVICES.**—In this paragraph, the term "personal assistance services" means a range of services, provided by 1 or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

**(3) DETERMINATION OF AWARDS.—**

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary shall determine a formula for awarding grants to States under this section that provides special consideration to States that provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XVI) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XVI)).

(B) **AWARD LIMITS.—**

(i) **MINIMUM AWARDS.—**

(I) IN GENERAL.—Subject to subclause (II), no State with an approved application under this section shall receive a grant for a fiscal year that is less than \$500,000.

(II) PRO RATA REDUCTIONS.—If the funds appropriated under subsection (e) for a fiscal year are not sufficient to pay each State with an application approved under this section the minimum amount described in subclause (I), the Secretary shall pay each such State an amount equal to the pro rata share of the amount made available.

(ii) MAXIMUM AWARDS.—No State with an application that has been approved under this section shall receive a grant for a fiscal year that exceeds 15 percent of the total expenditures by the State (including the reimbursed Federal share of such expenditures) for medical assistance for individuals eligible under subclause (XV) and (XVI) of section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as estimated by the State and approved by the Secretary.

(c) AVAILABILITY OF FUNDS.—

(1) FUNDS AWARDED TO STATES.—Funds awarded to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT AWARDED TO STATES.—Funds not awarded to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for awarding by the Secretary.

(d) ANNUAL REPORT.—A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of title II disability beneficiaries, as defined in section 1148(k)(3) of the Social Security Act (as amended by section 201) in the State, and title XVI disability beneficiaries, as defined in section 1148(k)(4) of the Social Security Act (as so amended) in the State who return to work.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) for fiscal year 2000, \$20,000,000;

(2) for fiscal year 2001, \$25,000,000;

(3) for fiscal year 2002, \$30,000,000;

(4) for fiscal year 2003, \$35,000,000;

(5) for fiscal year 2004, \$40,000,000; and

(6) for each of fiscal years 2005 through 2010, the amount appropriated for the preceding fiscal year under this subsection increased by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers (United States city average) for the preceding fiscal year.

(f) RECOMMENDATION.—Not later than October 1, 2009, the Secretary, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f), shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the grant program established under this section should be continued after fiscal year 2010.

**SEC. 204. DEMONSTRATION OF COVERAGE UNDER THE MEDICAID PROGRAM OF WORKERS WITH POTENTIALLY SEVERE DISABILITIES.**

(a) STATE APPLICATION.—A State may apply to the Secretary of Health and Human Services (in this section referred to as the “Secretary”) for approval of a demonstration project (in this section referred to as a “demonstration project”) under which up to a specified maximum number of individuals who are workers with a potentially severe disability (as defined in subsection (b)(1)) are provided medical assistance equal to that provided under section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) to individuals described in section 1902(a)(10)(A)(ii)(XV) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XV)).

(b) WORKER WITH A POTENTIALLY SEVERE DISABILITY DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term “worker with a potentially severe disability” means, with respect to a demonstration project, an individual who—

(A) is at least 16, but less than 65, years of age;

(B) has a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected, but for the receipt of items and services described in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), to become blind or disabled (as defined under section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

(C) is employed (as defined in paragraph (2)).

(2) DEFINITION OF EMPLOYED.—An individual is considered to be “employed” if the individual—

(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined under the demonstration project and approved by the Secretary.

(c) APPROVAL OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary shall approve applications under subsection (a) that meet the requirements of paragraph (2) and such additional terms and conditions as the Secretary may require. The Secretary may waive the requirement of section 1902(a)(1) of the Social Security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-State demonstrations.

(2) TERMS AND CONDITIONS OF DEMONSTRATION PROJECTS.—The Secretary may not approve a demonstration project under this section unless the State provides assurances satisfactory to the Secretary that the following conditions are or will be met:

(A) ELECTION OF OPTIONAL CATEGORY.—The State has elected to provide coverage under its plan under title XIX of the Social Security Act of individuals described in section 1902(a)(10)(A)(ii)(XV) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XV)).

(B) MAINTENANCE OF STATE EFFORT.—Federal funds paid to a State pursuant to this section must be used to supplement, but not supplant, the level of State funds expended for workers with potentially severe disabilities under programs in effect for such individuals at the time the demonstration project is approved under this section.

(C) INDEPENDENT EVALUATION.—The State provides for an independent evaluation of the project.

(3) LIMITATIONS ON FEDERAL FUNDING.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

- (i) for fiscal year 2000, \$72,000,000;
- (ii) for fiscal year 2001, \$74,000,000;
- (iii) for fiscal year 2002, \$78,000,000; and
- (iv) for fiscal year 2003, \$81,000,000.

(B) LIMITATION ON PAYMENTS.—In no case may—

- (i) the aggregate amount of payments made by the Secretary to States under this section, other than for administrative expenses described in clause (ii), exceed \$300,000,000;
- (ii) the aggregate amount of payments made by the Secretary to States for administrative expenses relating to annual reports required under subsection (d) exceed \$5,000,000; or
- (iii) payments be provided by the Secretary for a fiscal year after fiscal year 2005.

(C) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States based on their applications and the availability of funds. Funds allocated to a State under a grant made under this section for a fiscal year shall remain available until expended.

(D) FUNDS NOT ALLOCATED TO STATES.—Funds not allocated to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allocation by the Secretary using the allocation formula established under this section.

(E) PAYMENTS TO STATES.—The Secretary shall pay to each State with a demonstration project approved under this section, from its allocation under subparagraph (C), an amount for each quarter equal to the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1395d(b))) of expenditures in the quarter for medical assistance provided to workers with a potentially severe disability.

(d) ANNUAL REPORT.—A State with a demonstration project approved under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include enrollment and financial statistics on—

- (1) the total population of workers with potentially severe disabilities served by the demonstration project; and
- (2) each population of such workers with a specific physical or mental impairment described in subsection (b)(1)(B) served by such project.

(e) **RECOMMENDATION.**—Not later than October 1, 2002, the Secretary shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the demonstration project established under this section should be continued after fiscal year 2003.

(f) **STATE DEFINED.**—In this section, the term “State” has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

**SEC. 205. ELECTION BY DISABLED BENEFICIARIES TO SUSPEND MEDIGAP INSURANCE WHEN COVERED UNDER A GROUP HEALTH PLAN.**

(a) **IN GENERAL.**—Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by inserting “or paragraph (6)” after “this paragraph”; and

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

“(6) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v)). If such suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, such policy shall be automatically reinstated (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.”

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) apply with respect to requests made after the date of the enactment of this Act.

### **TITLE III—DEMONSTRATION PROJECTS AND STUDIES**

**SEC. 301. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.**

(a) **EXTENSION OF AUTHORITY.**—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by adding at the end the following:

**“DEMONSTRATION PROJECT AUTHORITY**

**“SEC. 234. (a) AUTHORITY.—**

“(1) **IN GENERAL.**—The Commissioner of Social Security (in this section referred to as the ‘Commissioner’) shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of—

“(A) various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)), including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of such individuals;

“(B) altering other limitations and conditions applicable to such individuals (including lengthening the trial work period (as defined in section 222(c)), altering the 24-month waiting period for hospital insurance benefits under section 226, altering the manner in which the program under this title is administered, earlier referral of such individuals for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation); and

“(C) implementing sliding scale benefit offsets using variations in—

“(i) the amount of the offset as a proportion of earned income;

“(ii) the duration of the offset period; and

“(iii) the method of determining the amount of income earned by such individuals,

to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this title.

“(2) **AUTHORITY FOR EXPANSION OF SCOPE.**—The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this title with impairments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to

any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

“(b) REQUIREMENTS.—The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program under this title without committing such program to the adoption of any particular system either locally or nationally.

“(c) AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.—In the case of any experiment or demonstration project conducted under subsection (a), the Commissioner may waive compliance with the benefit requirements of this title and the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

“(d) REPORTS.—

“(1) INTERIM REPORTS.—On or before June 9 of each year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials that the Commissioner may consider appropriate.

“(2) TERMINATION AND FINAL REPORT.—The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c)) shall terminate 5 years after the date of the enactment of this Act. Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.”

(b) CONFORMING AMENDMENTS; TRANSFER OF PRIOR AUTHORITY.—

(1) CONFORMING AMENDMENTS.—

(A) REPEAL OF PRIOR AUTHORITY.—Paragraphs (1) through (4) of subsection (a) and subsection (c) of section 505 of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) are repealed.

(B) CONFORMING AMENDMENT REGARDING FUNDING.—Section 201(k) of the Social Security Act (42 U.S.C. 401(k)) is amended by striking “section 505(a) of the Social Security Disability Amendments of 1980” and inserting “section 234”.

(2) TRANSFER OF PRIOR AUTHORITY.—With respect to any experiment or demonstration project being conducted under section 505(a) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) as of the date of enactment of this Act, the authority to conduct such experiment or demonstration project (including the terms and conditions applicable to the experiment or demonstration project) shall be treated as if that authority (and such terms and conditions) had been established under section 234 of the Social Security Act, as added by subsection (a).

**SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

(a) AUTHORITY.—The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1148(k)(3) of the Social Security Act) under which benefits payable under section 223 of such Act, or under section 202 of such Act based on the beneficiary's disability, are reduced by \$1 for each \$2 of the beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness

of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

(b) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—

(1) IN GENERAL.—The demonstration projects developed under subsection (a) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

(A) the effects, if any, of induced entry into the project and reduced exit from the project;

(B) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act; and

(C) the savings that accrue to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Work Incentives Advisory Panel pursuant to section 101(f)(2)(B)(ii) of this Act.

(2) ADDITIONAL MATTERS.—The Commissioner shall also determine with respect to each project—

(A) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project;

(B) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project; and

(C) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

(c) WAIVERS.—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) INTERIM REPORTS.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Commissioner of Social Security shall submit to Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials that the Commissioner of Social Security may consider appropriate.

(e) FINAL REPORT.—The Commissioner of Social Security shall submit to Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.

(f) EXPENDITURES.—Expenditures made for demonstration projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

SEC. 303. STUDIES AND REPORTS.

(a) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.—

(1) STUDY.—As soon as practicable after the date of enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 and other Federal laws. In such study,





# CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 15, 1999

## H.R. 3070

### Ticket to Work and Work Incentives Improvement Act of 1999

*As ordered reported by the Committee on Ways and Means on October 14, 1999*

## SUMMARY

H.R. 3070 would alter cash and health-care benefits for people with disabilities. Title I would revamp the system under which people collecting benefits from Disability Insurance (DI) and Supplemental Security Income (SSI) receive vocational rehabilitation (VR) services and would make it easier for working beneficiaries to retain or regain cash benefits. Title II would provide states with options to extend Medicaid coverage to certain disabled workers, enhance Medicare coverage for people who leave the DI rolls because of work, and authorize grants and demonstration projects (subject to future appropriation) for states to assist disabled workers. Title III would require several demonstration projects affecting DI recipients. To offset the costs of the bill, title IV would tighten restrictions on the payment of Social Security benefits to prisoners, give certain members of the clergy another opportunity to enroll in the Social Security system, levy a processing charge on attorneys who represent DI claimants, and reduce some Medicare and Medicaid costs.

CBO estimates that the bill's effects on direct spending and revenues would add to the total federal surplus by \$18 million over the 2000-2004 period; of that amount, \$168 million would represent an increase in the off-budget Social Security surplus, offset by a \$150 million reduction in the on-budget surplus. The bill's effects on direct spending and revenues would reduce the total federal surplus over the 2000-2009 period. Because H.R. 3070 would affect receipts and direct spending, pay-as-you-go procedures would apply. Furthermore, assuming appropriation of the necessary sums, additional discretionary spending under this bill would total about \$565 million over the 2000-2004 period.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that relate to the Old-Age, Survivors, and Disability Insurance program under title II of the Social Security Act, including tax provisions in the Internal Revenue Code. CBO has determined that the provisions of H.R. 3070 either fall within that exclusion or contain no intergovernmental mandates. Provisions of the bill that are not excluded from the application of UMRA contain one private-sector mandate; CBO estimates that its cost would be well below the threshold specified in UMRA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3070 on direct spending and revenues is summarized in Table 1. This legislation would affect budget functions 550 (Health), 570 (Medicare), 600 (Income Security), and 650 (Social Security).

**TABLE 1.**  
**ESTIMATED DIRECT SPENDING AND REVENUE EFFECTS OF H.R. 3070, BY PROVISION**

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Title I</b>										
Establishment of the Ticket to Work and Self-Sufficiency Program										
Disability Insurance	a	a	2	3	-5	-21	-45	-51	-52	-53
Medicare	a	a	a	a	1	1	1	-3	-11	-25
Supplemental Security Income	a	a	1	1	-2	-7	-16	-22	-27	-32
Subtotal (effect on outlays)	a	a	3	4	-7	-27	-60	-75	-90	-110
Bar on Work CDRs for Certain DI Beneficiaries With Earnings										
Disability Insurance	0	0	0	5	15	20	25	25	25	25
Medicare	0	0	0	2	5	8	9	10	10	11
Subtotal (effect on outlays)	0	0	0	7	20	28	34	35	35	36
Expedited Reinstatement of DI Benefits Within 60 Months of Termination										
Disability Insurance	0	1	1	1	2	3	3	4	5	6
Medicare	0	a	a	a	1	1	1	2	2	3
Subtotal (effect on outlays)	0	1	1	1	3	4	4	6	7	9
<b>Title II</b>										
State Option to Eliminate Income, Resource, and Asset Limitations for Medicaid Buy-in										
Medicaid	15	16	18	20	22	24	26	29	32	35
State Option to Continue Medicaid Buy-in for Participants Whose DI or SSI Benefits Are Terminated After a CDR										
Medicaid	1	2	3	4	5	6	8	9	11	13
Six-Year Extension of Medicare for Former DI Beneficiaries Who Exhaust Their Current Law EPE, effective October 2000										
Medicare	0	10	29	48	74	104	141	161	186	219
<b>Title III</b>										
Five-Year Extension of DI Demonstration Project Authority										
Disability Insurance	3	5	5	5	5	3	a	a	a	a
\$1-for-\$2 Demonstration Projects										

DI Benefit Costs	0	0	3	8	13	18	19	18	18	18
Medicare Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>4</u>	<u>7</u>	<u>9</u>	<u>9</u>	<u>9</u>
Subtotal (effect on outlays)	0	0	3	8	15	22	26	27	28	27

## Title IV

## Provisions Affecting Prisoners

Payments to Prison Officials (OASDI)	2	7	8	9	9	10	10	10	10	10
Payments to Prison Officials (SSI)	a	1	1	1	1	1	1	1	1	1
Savings in Benefits (OASDI)	-5	-24	-28	-31	-35	-35	-35	-35	-35	-35
Savings in Benefits (SSI)	<u>-2</u>	<u>-7</u>	<u>-8</u>	<u>-9</u>	<u>-11</u>	<u>-11</u>	<u>-11</u>	<u>-11</u>	<u>-11</u>	<u>-11</u>
Subtotal (effect on outlays)	-5	-24	-27	-31	-36	-35	-35	-35	-35	-35

## Open Season for Clergy to Enroll in Social Security

Off-Budget (OASDI) Revenues	2	7	9	9	9	10	10	10	10	11
On-Budget (HI) Revenues	1	2	2	2	2	2	2	2	2	2
Other On-Budget Revenues	a	-1	-1	-1	-1	-1	-1	-1	-1	-1
OASDI Benefits	<u>a</u>	<u>a</u>	<u>a</u>	<u>a</u>	<u>a</u>	<u>a</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
Subtotal (effect on total surplus)	3	8	10	10	10	10	10	10	11	11

## Collection of Processing Fees from Attorneys Who Represent Successful DI Claimants

Disability Insurance	-15	-25	-25	-25	-25	-25	-25	-25	-25	-25
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## Expansion of Certain Anti-Fraud Provisions in Medicaid

Medicare	0	-3	-5	-5	-5	-5	-5	-5	-5	-5
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## Restriction on Medicaid Payments for School-Based Services

Medicaid	-3	-11	-16	-18	-22	-27	-32	-38	-45	-52
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## Total

## Outlays

On-Budget	12	7	22	43	70	99	130	143	152	166
Off-Budget	<u>-16</u>	<u>-36</u>	<u>-33</u>	<u>-25</u>	<u>-21</u>	<u>-27</u>	<u>-47</u>	<u>-53</u>	<u>-53</u>	<u>-53</u>
Total	-4	-28	-11	18	49	72	82	90	99	113

## Revenues

On-Budget	1	1	1	1	1	1	1	1	1	1
Off-Budget	<u>2</u>	<u>7</u>	<u>9</u>	<u>9</u>	<u>9</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>11</u>
Total	3	8	10	10	10	11	11	11	11	12

## Deficit (-) or Surplus (+)

On-Budget	-11	-6	-21	-42	-69	-98	-129	-142	-151	-165
Off-Budget	<u>18</u>	<u>43</u>	<u>42</u>	<u>34</u>	<u>30</u>	<u>36</u>	<u>57</u>	<u>63</u>	<u>64</u>	<u>64</u>
Total	7	37	21	-8	-39	-61	-72	-79	-88	-102

Notes: Components may not sum to totals due to rounding.

OASDI=Old-Age, Survivors, and Disability Insurance, DI=Disability Insurance, SSI=Supplemental Security Income, CDR=Continuing Disability Review, EPE=extended period of eligibility, HI=Hospital Insurance (Medicare Part A).

a. Less than \$500,000.

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## BASIS OF ESTIMATE

For purposes of estimating the budgetary effects of H.R. 3070, CBO assumes enactment by December 1, 1999. Most provisions of H.R. 3070 as reported by the Committee on Ways and Means are the same as those in S. 331, a bill that was passed by the Senate in July. Differences between the two bills are summarized in Table 2. The major differences that affect CBO's estimate are:

- Both bills would stop continuing disability reviews (CDRs) that are triggered by a report of earnings. The people affected would still be subject to periodic CDRs, which generally occur every three years. In S. 331, this provision would be effective immediately, whereas H.R. 3070 would delay it until January 2003. As a result, costs would be smaller over the 2000-2005 period.
- Both bills would provide extended Medicare coverage for people who leave the DI rolls because of work. Under current law, those people already get three years of Medicare coverage (a period commonly called the extended period of eligibility, or EPE) after their cash benefits are suspended. The Senate bill would grant indefinite Medicare coverage to people who graduate from the EPE in the next six years, then revert to current law for later graduates. The Ways and Means bill would grant six years of extra coverage for all people who complete the EPE after September 2000. Consequently, the Ways and Means approach is less costly at first but more expensive beginning in 2007.
- Both measures would establish two new grant programs to be administered by the Department of Health and Human Services: one that would encourage states, along with the Social Security Administration (SSA), to publicize information about the work incentives and vocational rehabilitation services available under law, and another that would temporarily permit states to grant Medicaid-like benefits to people with serious medical conditions who are not yet sufficiently disabled to qualify for cash benefits. In the Senate's bill, these grants would occur automatically, without any further Congressional action; in the Ways and Means version, they would be subject to future appropriation.
- Both bills would extend SSA's demonstration authority, which sometimes requires the agency to waive certain provisions of law. The Senate bill would extend it permanently, the Ways and Means bill for the next five years.
- The two bills contain a subtle difference in their provisions affecting prisoners. The Senate bill would require suspension of Social Security benefits for convicted criminals who are incarcerated throughout a month. The Ways and Means bill would suspend benefits if the prisoner were confined during a month and thus would result in larger savings. For example, a felon whose six-month sentence ran from January 15 to July 15 would be subject to a longer suspension in the Ways and Means bill. H.R. 3070 contains an exemption for prisoners whose entire sentence is less than 30 days.
- The Ways and Means bill adds a provision that would require SSA to collect a processing charge from attorneys who represent successful DI claimants at the appeals level. Currently, in cases where the attorney and client have consented, SSA withholds the attorney's fee from the beneficiary's initial lump-sum check and remits it to the attorney. The provision would require that SSA withhold 6.3 percent of the attorney fee, or about \$165 on average, to cover its processing costs.

- The Ways and Means bill adds a provision that would expand the authority of state Medicaid Fraud Control Units (MFCUs) in two ways. First, it would explicitly allow MFCUs to investigate and prosecute fraud in federal health care programs other than Medicaid if the suspected fraud is primarily related to Medicaid and the MFCU receives approval from the relevant federal agency. Funds collected as the result of such investigations would be credited to the relevant federal health care program. Second, the provision would give states the option to review complaints of abuse or neglect of patients who reside in board and care facilities.

CBO estimates that the provision would result in savings to Medicare of \$5 million a year once it is fully phased in because MFCUs would recover somewhat larger amounts of restitution for Medicare fraud than they do under current law. Other federal health programs would also receive higher restitution, but CBO estimates these amounts to be less than \$500,000 each year. To the extent that states choose to investigate abuse and neglect in board and care facilities, MFCU expenses could be higher, but CBO expects that most of these investigations would be undertaken with current resources so that increased costs to Medicaid would be negligible.

- Finally, the Ways and Means bill adds a series of provisions that would introduce new requirements as to how school districts may bill Medicaid when they provide health services to Medicaid beneficiaries. CBO estimates that those provisions would lower net federal Medicaid outlays by \$70 million over the 2000-2004 period and by \$264 million over the 2000-2009 period.

Under current law, states can receive federal Medicaid reimbursement for school-based services provided to Medicaid beneficiaries and related administrative costs. There have been recent concerns that some of the reimbursement practices may be inappropriate. H.R. 3070 would: strengthen reporting requirements for school-based services; narrow the circumstances under which transportation could be reimbursed; require the Health Care Financing Administration to develop and implement a uniform methodology for states to file claims for payment of school-based medical assistance and administration; constrain the arrangements that states may enter into with contractors; and limit the amount of federal reimbursement that may be retained by the state.

CBO expects that those provisions would lead to lower Medicaid claims in the future as some of the controversial practices are deterred. The savings would be partially offset by increased administrative costs in the short term as states implement new procedures, and by new claims from states that begin to file claims under a new uniform methodology.

**TABLE 2.  
DIFFERENCES BETWEEN CBO ESTIMATES OF S. 331 AS PASSED BY THE SENATE AND H.R. 3070 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS**

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>CBO estimate of S. 331 as Passed</b>										
Outlays	50	117	174	201	227	193	176	167	166	162
Revenues	3	8	10	10	10	11	11	11	11	12
Surplus	-47	-108	-164	-191	-217	-182	-165	-156	-155	-150

**Changes from S. 331 as Passed**

Outlays

## Bar on Work CDRs for Certain DI Beneficiaries

Disability Insurance	-5	-15	-20	-15	-5	-5	0	0	0	0
Medicare (net)	-2	-6	-7	-5	-3	a	0	0	0	0

## Extension of Medicare for Former DI Beneficiaries Who Exhaust Their Current-Law EPE

Medicare (net)	-10	-19	-19	-20	-21	-21	-6	17	35	62
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## Grants to States to Provide Infrastructure to Support Working Individuals with Disabilities

HHS Outlays	-6	-7	-7	-8	-9	-10	-11	-12	-13	-14
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## Demonstration Project for States Covering Workers with Potentially Severe Disabilities

HHS Outlays	-11	-51	-76	-76	-76	-15	0	0	0	0
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## Extension of DI Demonstration Project Authority

Disability Insurance	0	0	0	0	0	-3	-5	-5	-5	-5
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## Provisions Affecting Prisoners

OASDI	-2	-9	-10	-10	-10	-10	-10	-10	-10	-10
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## Attorney fee provision

Disability Insurance	-15	-25	-25	-25	-25	-25	-25	-25	-25	-25
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## Expansion of Medicaid Anti-fraud Authority

	0	-3	-5	-5	-5	-5	-5	-5	-5	-5
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## Restrict School-based Medicaid

	<u>-3</u>	<u>-11</u>	<u>-16</u>	<u>-18</u>	<u>-22</u>	<u>-27</u>	<u>-32</u>	<u>-38</u>	<u>-45</u>	<u>-52</u>
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Total	-54	-146	-185	-182	-176	-121	-94	-78	-68	-49
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## H.R. 3070, as Reported

Outlays	-4	-28	-11	18	49	72	82	90	99	113
Revenues	3	8	10	10	10	11	11	11	11	12
Surplus	7	37	21	-8	-39	-61	-72	-79	-88	-102

Notes: Components may not sum to totals due to rounding.

OASDI=Old-Age, Survivors, and Disability Insurance, DI=Disability Insurance, CDR=Continuing Disability Review, EPE=extended period of eligibility, HHS=Department of Health and Human Services

a. Less than \$500,000.

H.R. 3070 would authorize several new grant programs and other activities, subject to future appropriation action.

Title I would establish a Work Incentives Advisory Panel, authorize a new outreach program to be funded by grants to community-based organizations that work with the disabled, and authorize grants to each state's protection and advocacy program. Title II would establish two new grant programs to encourage states to provide better health care coverage to people with disabilities. (These two are identical to grant programs that would be established under S. 331, except that in the Senate-passed bill they would not be subject to future appropriation action.) Altogether, the new programs would be authorized to receive about \$0.6 billion in budget authority over the 2000-2004 period.

SSA would also incur greater administrative expenses to implement the new vocational rehabilitation program and other activities under the bill. CBO judges that those extra expenses would cost the agency between \$15 million and \$40 million a year.

## PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in Table 3. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

**TABLE 3.**  
**SUMMARY OF THE PAY-AS-YOU-GO EFFECTS OF H.R. 3070**

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	12	7	22	43	70	99	130	143	152	166
Changes in receipts	1	1	1	1	1	1	1	1	1	1

## ESTIMATED IMPACT ON THE PRIVATE SECTOR

Provisions of the bill not excluded from consideration by UMRA include one private-sector mandate on insurers who provide medigap coverage to Medicare beneficiaries who are eligible because of disability. It would require such insurers to reinstate coverage that disabled beneficiaries had previously suspended because they had group health plan coverage, if the beneficiaries lose that group coverage and request reinstatement within 90 days of that loss. Because of restrictions on the premiums that could be charged for reinstated coverage, this provision could impose costs that insurers might not immediately recover from premiums. However, because of the small number of beneficiaries this provision would affect, the costs that might be imposed on medigap insurers would be well below the threshold specified in UMRA (\$100 million in 1996, adjusted annually for inflation).

## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that relate to the Old-Age, Survivors, and Disability Insurance programs under title II of the Social Security Act, including tax provisions in the Internal Revenue Code. CBO has

determined that the provisions of H.R. 3070 either fall within that exclusion or contain no intergovernmental mandates.

The bill includes optional programs for states that would result in greater state spending if they chose to participate as well as additional grants to states for specific programs. While the bill includes a number of optional expansions for Medicaid, additional requirements on how school districts bill Medicaid for health services would result in a cut in Medicaid funding for those purposes.

Title II contains a number of optional programs for states to expand their Medicaid program to cover workers with disabilities who want to buy into Medicaid and to continue Medicaid coverage for individuals who lose their eligibility for DI or SSI following a continuing disability review. CBO estimates that state costs attributable to these optional expansions during the first five years would total about \$70 million for the first option and about \$10 million for the second. States would also have the option of charging participants premiums or other fees to offset a portion of those costs. States that implement the first of these Medicaid options would be eligible for grants to develop and operate programs to support working individuals with disabilities. CBO estimates that states would receive a total of about \$40 million during the first five years the program is in effect.

Title II would also allow states to establish demonstration projects that would provide health services equal to those available under Medicaid to working individuals with physical or mental impairments who, without such services, could become blind or disabled. CBO estimates that state costs attributable to this optional coverage would total \$215 million over the first five years of implementation. Federal funding for these demonstration projects would be subject to annual appropriation.

Finally, new requirements on how school districts may bill Medicaid for health services would result in a decrease in federal Medicaid funding of \$70 million over the 2000-2004 period, as described in the Basis of Estimates section.

## **ESTIMATE PREPARED BY:**

Federal Cost: Kathy Ruffing (DI and SSI), Jeanne De Sa and Dorothy Rosenbaum (Medicare and Medicaid), and Noah Meyerson (Social Security receipts)  
Impact on State, Local, and Tribal Governments: Leo Lex  
Impact on the Private Sector: Bruce Vavrichek

## **ESTIMATE APPROVED BY:**

Robert A. Sunshine  
Assistant Director for Budget Analysis

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106<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1091

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1999

Mr. HULSHOF introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Ticket to Work and Self-Sufficiency Act of 1999”.

4 (b) **TABLE OF CONTENTS.**—The table of contents is  
5 as follows:

Sec. 1. Short title and table of contents.

**TITLE I—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES**

Sec. 101. Expanding State options under Medicaid for workers with disabilities.

Sec. 102. Extending Medicare coverage for OASDI disability benefit recipients  
who are using tickets to work and self-sufficiency.

Sec. 103. Grants to develop and establish State infrastructures to support  
working individuals with disabilities.

Sec. 104. Demonstration of coverage of workers with potentially severe disabili-  
ties.

**TITLE II—TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM**

Sec. 201. Establishment of the Ticket to Work and Self-Sufficiency Program.

Sec. 202. Effective date.

Sec. 203. Graduated implementation of Program.

Sec. 204. The Ticket to Work and Self-Sufficiency Advisory Panel.

Sec. 205. Demonstration projects and studies.

**TITLE III—TECHNICAL AMENDMENTS**

Sec. 301. Technical amendments relating to drug addicts and alcoholics.

Sec. 302. Treatment of prisoners.

Sec. 303. Revocation by members of the clergy of exemption from social secu-  
rity coverage.

Sec. 304. Additional technical amendment relating to cooperative research or  
demonstration projects under titles II and XVI.

Sec. 305. Authorization for State to permit annual wage reports.

6 **TITLE I—EXPANDED AVAILABIL-**  
7 **ITY OF HEALTH CARE SERV-**  
8 **ICES**

9 **SEC. 101. EXPANDING STATE OPTIONS UNDER MEDICAID**  
10 **FOR WORKERS WITH DISABILITIES.**

11 (a) **STATE OPTION TO ELIMINATE INCOME, ASSETS,**  
12 **AND RESOURCE LIMITATIONS FOR WORKERS WITH DIS-**  
13 **ABILITIES BUYING INTO MEDICAID.**—Section

1 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C.  
2 1396a(a)(10)(A)(ii)) is amended—

3 (1) in subclause (XIII), by striking “or” at the  
4 end;

5 (2) in subclause (XIV), by adding “or” at the  
6 end; and

7 (3) by adding at the end the following:

8 “(XV) who, but for earnings in  
9 excess of the limit established under  
10 section 1905(q)(2)(B), and subject to  
11 limitations on assets, resources, or un-  
12 earned income that may be set by the  
13 State, would be considered to be re-  
14 ceiving supplemental security income  
15 (subject, notwithstanding section  
16 1916, to payment of premiums or  
17 other cost-sharing charges (set on a  
18 sliding scale based on income that the  
19 State may determine and that may re-  
20 quire an individual with income that  
21 exceeds 250 percent of the income of-  
22 ficial poverty line (as defined by the  
23 Office of Management and Budget,  
24 and revised annually in accordance  
25 with section 673(2) of the Omnibus

1           Budget Reconciliation Act of 1981)  
2           applicable to a family of the size in-  
3           volved to pay an amount equal to 100  
4           percent of the premium cost for pro-  
5           viding medical assistance to the indi-  
6           vidual), so long as any such premiums  
7           or other cost-sharing charges are the  
8           same as any premiums or other cost-  
9           sharing charges imposed for individ-  
10          uals described in subclause (XVI));”.

11          (b) STATE OPTION TO EXPAND OPPORTUNITIES FOR  
12          WORKERS WITH DISABILITIES TO BUY INTO MEDIC-  
13          AID.—

14               (1) ELIGIBILITY.—Section 1902(a)(10)(A)(ii)  
15          of the Social Security Act (42 U.S.C.  
16          1396a(a)(10)(A)(ii)), as amended by subsection (a),  
17          is amended—

18                       (A) in subclause (XIV), by striking “or” at  
19          the end;

20                       (B) in subclause (XV), by adding “or” at  
21          the end; and

22                       (C) by adding at the end the following:

23                               “(XVI) who are working individ-  
24                               uals with disabilities described in sec-  
25                               tion 1905(v) (subject, notwithstanding

1 section 1916, to payment of premiums  
2 or other cost-sharing charges (set on  
3 a sliding scale based on income) that  
4 the State may determine so long as  
5 any such premiums or other cost-shar-  
6 ing charges are the same as any pre-  
7 miums or other cost-sharing charges  
8 imposed for individuals described in  
9 subclause (XV)), but only if the State  
10 provides medical assistance to individ-  
11 uals described in subclause (XV);”.

12 (2) DEFINITION OF WORKING INDIVIDUALS  
13 WITH DISABILITIES.—Section 1905 of the Social Se-  
14 curity Act (42 U.S.C. 1396d) is amended by adding  
15 at the end the following:

16 “(v)(1) The term ‘working individuals with disabil-  
17 ities’ means individuals ages 16 through 64 who—

18 “(A) by reason of medical improvement, cease  
19 to be eligible for benefits under section 223(d) or  
20 1614(a)(3) at the time of a regularly scheduled con-  
21 tinuing disability review but who continue to have a  
22 severe medically determinable impairment; and

23 “(B) are employed.

24 “(2) An individual is considered to be ‘employed’ if  
25 the individual—

1           “(A) is earning at least the applicable minimum  
2           wage requirement under section 6 of the Fair Labor  
3           Standards Act (29 U.S.C. 206) and working at least  
4           40 hours per month; or

5           “(B) is engaged in a work effort that meets  
6           substantial and reasonable threshold criteria for  
7           hours of work, wages, or other measures, as defined  
8           by the State and approved by the Secretary.”.

9           (3) CONFORMING AMENDMENT.—Section  
10          1905(a) of the Social Security Act (42 U.S.C.  
11          1396d(a)) is amended in the matter preceding para-  
12          graph (1)—

13                 (A) in clause (x), by striking “or” at the  
14                 end;

15                 (B) in clause (xi), by adding “or” at the  
16                 end; and

17                 (C) by inserting after clause (xi), the fol-  
18                 lowing:

19                 “(xii) individuals described in subsection (v),”.

20          (c) PROHIBITION AGAINST SUPPLANTATION OF  
21          STATE FUNDS; MAINTENANCE OF EFFORT REQUIRE-  
22          MENT; CONDITION FOR APPROVAL OF STATE PLAN  
23          AMENDMENT.—

24                 (1) NO SUPPLANTATION OF STATE FUNDS.—

25                 Federal funds paid to a State for medical assistance



1 provided to an individual described in subclause  
2 (XV) or (XVI) of section 1902(a)(10)(A)(ii) of the  
3 Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii))  
4 must be used to supplement but not supplant the  
5 level of State funds expended as of October 1, 1998  
6 for programs to enable working individuals with dis-  
7 abilities to work.

8 (2) MAINTENANCE OF EFFORT.—With respect  
9 to a fiscal year quarter, no Federal funds may be  
10 paid to a State for medical assistance provided to an  
11 individual described in subclause (XV) or (XVI) of  
12 section 1902(a)(10)(A)(ii) of the Social Security Act  
13 (42 U.S.C. 1396a(a)(10)(A)(ii)) for such fiscal year  
14 quarter if the Secretary of Health and Human Serv-  
15 ices determines that the total of the State expendi-  
16 tures for programs to enable working individuals  
17 with disabilities to work for the preceding fiscal year  
18 quarter is less than the total of such expenditures  
19 for the same fiscal year quarter of the preceding fis-  
20 cal year.

21 (3) CONDITION FOR APPROVAL OF STATE PLAN  
22 AMENDMENTS.—No State plan amendment that pro-  
23 poses to provide medical assistance to an individual  
24 described in subclause (XV) or (XVI) of section  
25 1902(a)(10)(A)(ii) of the Social Security Act (42

1 U.S.C. 1396a(a)(10)(A)(ii)) may be approved unless  
2 the chief executive officer of the State certifies to  
3 the Secretary of Health and Human Services that  
4 the plan, as so amended, will satisfy the require-  
5 ments of paragraphs (1) and (2) of this subsection.

6 (d) EFFECTIVE DATE.—

7 (1) IN GENERAL.—The amendments made by  
8 this section shall apply on and after October 1,  
9 1999.

10 (2) EXTENSION OF EFFECTIVE DATE FOR  
11 STATE LAW AMENDMENT.—In the case of a State  
12 plan under title XIX of the Social Security Act  
13 which the Secretary of Health and Human Services  
14 determines requires State legislation in order for the  
15 plan to meet the additional requirements imposed by  
16 the amendments made by this section, the State  
17 plan shall not be regarded as failing to comply with  
18 the requirements of this section solely on the basis  
19 of its failure to meet these additional requirements  
20 before the first day of the first calendar quarter be-  
21 ginning after the close of the first regular session of  
22 the State legislature that begins after the date of en-  
23 actment of this Act. For purposes of the previous  
24 sentence, in the case of a State that has a 2-year  
25 legislative session, each year of the session is consid-

1       ered to be a separate regular session of the State  
2       legislature.

3 **SEC. 102. EXTENDING MEDICARE COVERAGE FOR OASDI**  
4                   **DISABILITY BENEFIT RECIPIENTS WHO ARE**  
5                   **USING TICKETS TO WORK AND SELF-SUFFI-**  
6                   **CIENCY.**

7       (a) **IN GENERAL.**—The next to last sentence of sec-  
8       tion 226(b) of the Social Security Act (42 U.S.C. 426)  
9       is amended—

10           (1) by striking “throughout all of which” and  
11           inserting “throughout the first 24 months of which”;  
12           and

13           (2) by inserting after “but not in excess of 24  
14           such months” the following: “(plus 24 additional  
15           such months in the case of an individual who the  
16           Commissioner determines is using a ticket to work  
17           and self-sufficiency issued under section 1148, but  
18           only for additional months that occur in the 7-year  
19           period beginning on the date of the enactment of the  
20           Ticket to Work and Self-Sufficiency Act of 1999)”.

21       (b) **REPORT.**—Not later than 6 months prior to the  
22       end of the 7-year period beginning on the date of the en-  
23       actment of this Act, the Secretary of Health and Human  
24       Services and the Commissioner of Social Security shall  
25       submit in writing to each House of the Congress their rec-

1 ommendations for further legislative action with respect  
2 to the amendments made by subsection (a), taking into  
3 account experience derived from efforts to achieve full im-  
4 plementation of the Ticket to Work and Self Sufficiency  
5 Program under section 1148 of the Social Security Act.

6 **SEC. 103. GRANTS TO DEVELOP AND ESTABLISH STATE IN-**  
7 **FRASTRUCTURES TO SUPPORT WORKING IN-**  
8 **DIVIDUALS WITH DISABILITIES.**

9 (a) ESTABLISHMENT.—

10 (1) IN GENERAL.—The Secretary of Health and  
11 Human Services (in this section referred to as the  
12 “Secretary”) shall award grants described in sub-  
13 section (b) to States to support the design, establish-  
14 ment, and operation of State infrastructures that  
15 provide items and services to support working indi-  
16 viduals with disabilities. A State may submit an ap-  
17 plication for a grant authorized under this section at  
18 such time, in such manner, and containing such in-  
19 formation as the Secretary may determine.

20 (2) DEFINITION OF STATE.—In this section,  
21 the term “State” means each of the 50 States, the  
22 District of Columbia, Puerto Rico, Guam, the  
23 United States Virgin Islands, American Samoa, and  
24 the Commonwealth of the Northern Mariana Is-  
25 lands.

1 (b) GRANTS FOR INFRASTRUCTURE AND OUT-  
2 REACH.—

3 (1) IN GENERAL.—Out of the funds appro-  
4 priated under subsection (e), the Secretary shall  
5 award grants to States to—

6 (A) support the establishment, implemen-  
7 tation, and operation of the State infrastruc-  
8 tures described in subsection (a); and

9 (B) conduct outreach campaigns regarding  
10 the existence of such infrastructures.

11 (2) ELIGIBILITY FOR GRANTS.—

12 (A) IN GENERAL.—No State may receive a  
13 grant under this subsection unless—

14 (i) the State has an approved amend-  
15 ment to the State plan under title XIX of  
16 the Social Security Act (42 U.S.C. 1396 et  
17 seq.) that—

18 (I) provides medical assistance  
19 under such plan to individuals de-  
20 scribed in section  
21 1902(a)(10)(A)(ii)(XV) of the Social  
22 Security Act (42 U.S.C.  
23 1396a(a)(10)(A)(ii)(XV)); or

24 (II) provides medical assistance  
25 under such plan to individuals de-

1 scribed in subclauses (XV) and (XVI)  
2 of section 1902(a)(10)(A)(ii) of the  
3 Social Security Act (42 U.S.C.  
4 1396a(a)(10)(A)(ii)); and

5 (ii) the State demonstrates to the sat-  
6 isfaction of the Secretary that the State  
7 makes personal assistance services avail-  
8 able under the State plan under title XIX  
9 of the Social Security Act (42 U.S.C. 1396  
10 et seq.) to the extent necessary to enable  
11 individuals described in subclause (I) or  
12 (II) of clause (i) to remain employed (as  
13 determined under section 1905(v)(2) of the  
14 Social Security Act (42 U.S.C.  
15 1396d(v)(2)).

16 (B) DEFINITION OF PERSONAL ASSIST-  
17 ANCE SERVICES.—In this paragraph, the term  
18 “personal assistance services” means a range of  
19 services, provided by 1 or more persons, de-  
20 signed to assist an individual with a disability  
21 to perform daily activities on and off the job  
22 that the individual would typically perform if  
23 the individual did not have a disability. Such  
24 services shall be designed to increase the indi-

1           vidual's control in life and ability to perform ev-  
2           eryday activities on or off the job.

3           (3) DETERMINATION OF AWARDS.—

4           (A) IN GENERAL.—Subject to subpara-  
5           graph (B), the Secretary shall determine a for-  
6           mula for awarding grants to States under this  
7           section that provides special consideration to  
8           States that provide medical assistance under  
9           title XIX of the Social Security Act to individ-  
10          uals           described           in           section  
11          1902(a)(10)(A)(ii)(XVI) of that Act (42 U.S.C.  
12          1396a(a)(10)(A)(ii)(XVI)).

13          (B) AWARD LIMITS.—

14           (i) MINIMUM AWARDS.—No State that  
15           submits an approved application for fund-  
16           ing under this section shall receive a grant  
17           for a fiscal year that is less than \$500,000.

18           (ii) MAXIMUM AWARDS.—No State  
19           that submits an approved application for  
20           funding under this section shall receive a  
21           grant for a fiscal year that exceeds 15 per-  
22           cent of the total expenditures by the State  
23           (including the reimbursed Federal share of  
24           such expenditures) for medical assistance  
25           for individuals eligible under subclause

1 (XV) or (XVI) of section  
2 1902(a)(10)(A)(ii), whichever is greater, as  
3 estimated by the State and approved by  
4 the Secretary.

5 (c) AVAILABILITY OF FUNDS.—

6 (1) FUNDS ALLOCATED TO STATES.—Funds al-  
7 located to a State under a grant made under this  
8 section for a fiscal year shall remain available until  
9 expended.

10 (2) FUNDS NOT ALLOCATED TO STATES.—

11 Funds not allocated to States in the fiscal year for  
12 which they are appropriated shall remain available  
13 in succeeding fiscal years for allocation by the Sec-  
14 retary using the allocation formula established by  
15 the Secretary under subsection (c)(3)(A).

16 (d) ANNUAL REPORT.—A State that receives a grant  
17 under this section shall submit an annual report to the  
18 Secretary on the use of funds provided under the grant.  
19 Each report shall include the percentage increase in the  
20 number of title II disability beneficiaries, as defined in sec-  
21 tion 1148(k)(2) of the Social Security Act (as amended  
22 by section 201) in the State, and title XVI disability bene-  
23 ficiaries, as defined in section 1148(k)(3) of the Social Se-  
24 curity Act (as so amended) in the State who return to  
25 work.



1 (e) APPROPRIATION.—Out of any funds in the Treas-  
2 ury not otherwise appropriated, there is authorized to be  
3 appropriated and there is appropriated to make grants  
4 under this section—

5 (1) for fiscal year 2000, \$20,000,000;

6 (2) for fiscal year 2001, \$25,000,000;

7 (3) for fiscal year 2002, \$30,000,000;

8 (4) for fiscal year 2003, \$35,000,000;

9 (5) for fiscal year 2004, \$40,000,000; and

10 (6) for fiscal years 2005 through 2010, the  
11 amount appropriated for the preceding fiscal year  
12 increased by the percentage increase (if any) in the  
13 Consumer Price Index for All Urban Consumers  
14 (United States city average) for the preceding fiscal  
15 year.

16 (f) RECOMMENDATION.—Not later than October 1,  
17 2009, the Secretary of Health and Human Services, in  
18 consultation with the Ticket to Work and Self-Sufficiency  
19 Advisory Panel established under section 202, shall submit  
20 a recommendation to the Committee on Commerce and the  
21 Committee on Ways and Means of the House of Rep-  
22 resentatives and the Committee on Finance of the Senate  
23 regarding whether the grant program established under  
24 this section should be continued after fiscal year 2010.

1 **SEC. 104. DEMONSTRATION OF COVERAGE OF WORKERS**  
2 **WITH POTENTIALLY SEVERE DISABILITIES.**

3 (a) STATE APPLICATION.—A State may apply to the  
4 Secretary of Health and Human Services (in this section  
5 referred to as the “Secretary”) for approval of a dem-  
6 onstration project (in this section referred to as a “dem-  
7 onstration project”) under which up to a specified maxi-  
8 mum number of individuals who are workers with a poten-  
9 tially severe disability (as defined in subsection (b)(1)) are  
10 provided medical assistance equal to that provided under  
11 section 1905(a) of the Social Security Act (42 U.S.C.  
12 1396d(a)) to individuals described in section  
13 1902(a)(10)(A)(ii)(XV) of that Act (42 U.S.C.  
14 1396a(a)(10)(A)(ii)(XV)).

15 (b) WORKER WITH A POTENTIALLY SEVERE DIS-  
16 ABILITY DEFINED.—For purposes of this section—

17 (1) IN GENERAL.—The term “worker with a  
18 potentially severe disability” means, with respect to  
19 a demonstration project, an individual who—

20 (A) is at least 16, but less than 65, years  
21 of age;

22 (B) has a specific physical or mental im-  
23 pairment that, as defined by the State under  
24 the demonstration project, is reasonably ex-  
25 pected, but for the receipt of items and services  
26 described in section 1905(a) of the Social Secu-

1           rity Act, to become blind or disabled (as defined  
2           under section 1614(a) of the Social Security  
3           Act); and

4           (C) is employed (as defined in paragraph  
5           (2)).

6           (2) DEFINITION OF EMPLOYED.—An individual  
7           is considered to be “employed” if the individual—

8           (A) is earning at least the applicable mini-  
9           mum wage requirement under section 6 of the  
10          Fair Labor Standards Act (29 U.S.C. 206) and  
11          working at least 40 hours per month; or

12          (B) is engaged in a work effort that meets  
13          substantial and reasonable threshold criteria for  
14          hours of work, wages, or other measures, as de-  
15          fined under the demonstration project and ap-  
16          proved by the Secretary.

17          (c) APPROVAL OF DEMONSTRATION PROJECTS.—

18          (1) IN GENERAL.—Subject to paragraph (3),  
19          the Secretary shall approve applications under sub-  
20          section (a) that meet the requirements of paragraph  
21          (2) and such additional terms and conditions as the  
22          Secretary may require. The Secretary may waive the  
23          requirement of section 1902(a)(1) of the Social Se-  
24          curity Act (42 U.S.C. 1396a(a)(1)) to allow for sub-  
25          State demonstrations.

1           (2) TERMS AND CONDITIONS OF DEMONSTRA-  
2           TION PROJECTS.—The Secretary may not approve a  
3           demonstration project under this section unless the  
4           State provides assurances satisfactory to the Sec-  
5           retary that the following conditions are or will be  
6           met:

7                   (A) ELECTION OF OPTIONAL CATEGORY.—

8           The State has elected to provide coverage under  
9           its plan under title XIX of the Social Security  
10          Act of individuals described in section  
11          1902(a)(10)(A)(ii)(XV) of the Social Security  
12          Act.

13                   (B) MAINTENANCE OF STATE EFFORT.—

14          Federal funds paid to a State pursuant to this  
15          section must be used to supplement, but not  
16          supplant, the level of State funds expended for  
17          workers with potentially severe disabilities  
18          under programs in effect for such individuals at  
19          the time the demonstration project is approved  
20          under this section.

21                   (C) INDEPENDENT EVALUATION.—The

22          State provides for an independent evaluation of  
23          the project.

24          (3) LIMITATIONS ON FEDERAL FUNDING.—

1 (A) APPROPRIATION.—Out of any funds in  
2 the Treasury not otherwise appropriated, there  
3 is authorized to be appropriated and there is  
4 appropriated to carry out this section—

5 (i) for fiscal year 2000, \$70,000,000;

6 (ii) for fiscal year 2001, \$73,000,000;

7 (iii) for fiscal year 2002, \$77,000,000;

8 and

9 (iv) for fiscal year 2003, \$80,000,000.

10 (B) LIMITATION ON PAYMENTS.—In no  
11 case may—

12 (i) the aggregate amount of payment  
13 made by the Secretary to States under this  
14 section exceed \$300,000,000; or

15 (ii) payment be provided by the Sec-  
16 retary for a fiscal year after fiscal year  
17 2005.

18 (C) FUNDS ALLOCATED TO STATES.—The  
19 Secretary shall allocate funds to States based  
20 on their applications and the availability of  
21 funds. Funds allocated to a State under a grant  
22 made under this section for a fiscal year shall  
23 remain available until expended.

24 (D) FUNDS NOT ALLOCATED TO STATES.—  
25 Funds not allocated to States in the fiscal year

1 for which they are appropriated shall remain  
2 available in succeeding fiscal years for alloca-  
3 tion by the Secretary using the allocation for-  
4 mula established under this section.

5 (E) PAYMENTS TO STATES.—Subject to  
6 the succeeding provisions of this section, the  
7 Secretary shall pay to each State with a dem-  
8 onstration project approved under this section,  
9 from its allocation under subparagraph (C), an  
10 amount for each quarter equal to the Federal  
11 medical assistance percentage (as defined in  
12 section 1905(b) of the Social Security Act (42  
13 U.S.C. 1395d(b)) of expenditures in the quarter  
14 for medical assistance provided to workers with  
15 a potentially severe disability.

16 (d) STATE DEFINED.—In this section, the term  
17 “State” has the meaning given such term for purposes of  
18 title XIX of the Social Security Act.

## 19 **TITLE II—TICKET TO WORK AND** 20 **SELF-SUFFICIENCY PROGRAM**

### 21 **SEC. 201. ESTABLISHMENT OF THE TICKET TO WORK AND** 22 **SELF-SUFFICIENCY PROGRAM.**

23 (a) IN GENERAL.—Part A of title XI of the Social  
24 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
25 ing at the end the following new section:



1 provided in paragraph (4)) an employment network,  
2 which is serving under the Program and to which  
3 such ticket is assigned by the beneficiary, for such  
4 employment services, vocational rehabilitation serv-  
5 ices, and other support services as the employment  
6 network may provide to the beneficiary.

7 “(4) PAYMENTS TO EMPLOYMENT NET-  
8 WORKS.—The Commissioner shall pay an employ-  
9 ment network under the Program in accordance with  
10 the outcome payment system under subsection  
11 (h)(2) or under the outcome-milestone payment sys-  
12 tem under subsection (h)(3) (whichever is elected  
13 pursuant to subsection (h)(1)). An employment net-  
14 work may not request or receive compensation for  
15 such services from the beneficiary.

16 “(c) STATE PARTICIPATION.—

17 “(1) PERIODIC ELECTIONS.—Each State agen-  
18 cy administering or supervising the administration  
19 of the State plan approved under title I of the Reha-  
20 bilitation act of 1973 may elect to participate in the  
21 Program (or to revoke any such election) as an em-  
22 ployment network. The Commissioner shall provide  
23 for periodic opportunities for exercising such elec-  
24 tions (and revocations).



1           “(2) TREATMENT OF STATE AGENCIES.—Any  
2 such election (or revocation) by a State agency de-  
3 scribed in paragraph (1) taking effect during any  
4 period for which an individual residing in the State  
5 is a disabled beneficiary and a client of the State  
6 agency shall not be effective with respect to such in-  
7 dividual to the extent that such election (or revoca-  
8 tion) would result in any change in the method of  
9 payment to the State agency with respect to the in-  
10 dividual from the method of payment to the State  
11 agency with respect to the individual in effect imme-  
12 diately before such election (or revocation).

13           “(3) EFFECT OF PARTICIPATION BY STATE  
14 AGENCY.—

15           “(A) STATE AGENCIES PARTICIPATING.—  
16 In any case in which a State agency described  
17 in paragraph (1) elects under paragraph (1) to  
18 participate in the Program—

19           “(i) the employment services, voca-  
20 tional rehabilitation services, and other  
21 support services which, upon assignment of  
22 tickets to work and self-sufficiency, are  
23 provided to disabled beneficiaries by the  
24 State agency acting as an employment net-  
25 work shall be governed by plans for voca-

1            tional rehabilitation services approved  
2            under title I of the Rehabilitation Act of  
3            1973; and

4            “(ii) the provisions of section 222(d)  
5            and the provisions of subsections (d) and  
6            (e) of section 1615 shall not apply with re-  
7            spect to such State.

8            “(B) STATE AGENCIES ADMINISTERING  
9            MATERNAL AND CHILD HEALTH SERVICES PRO-  
10            GRAMS.—Subparagraph (A) shall not apply  
11            with respect to any State agency administering  
12            a program under title V of this Act.

13            “(4) SPECIAL REQUIREMENTS APPLICABLE TO  
14            CROSS-REFERRAL TO CERTAIN STATE AGENCIES.—

15            “(A) IN GENERAL.—In any case in which  
16            an employment network has been assigned a  
17            ticket to work and self-sufficiency by a disabled  
18            beneficiary, no State agency shall be deemed re-  
19            quired, under this section, title I of the Reha-  
20            bilitation Act of 1973, or a State plan approved  
21            under such title, to accept any referral of such  
22            disabled beneficiary from such employment net-  
23            work unless such employment network and such  
24            State agency have entered into a written agree-

1           ment that meets the requirements of subpara-  
2           graph (B).

3           “(B) TERMS OF AGREEMENT.—An agree-  
4           ment required by subparagraph (A) shall speci-  
5           fy, in accordance with regulations prescribed  
6           pursuant to subparagraph (C)—

7                   “(i) the extent (if any) to which the  
8                   employment network holding the ticket will  
9                   provide to the State agency—

10                           “(I) reimbursement for costs in-  
11                           curred in providing services described  
12                           in subparagraph (A) to the disabled  
13                           beneficiary; and

14                           “(II) other amounts from pay-  
15                           ments made by the Commissioner to  
16                           the employment network pursuant to  
17                           subsection (h); and

18                           “(ii) any other conditions that may be  
19                           required by such regulations.

20           “(C) REGULATIONS.—The Commissioner  
21           of Social Security and the Secretary of Edu-  
22           cation shall jointly prescribe regulations specify-  
23           ing the terms of agreements required by sub-  
24           paragraph (A) and otherwise necessary to carry  
25           out the provisions of this paragraph.

1           “(D) PENALTY.—No payment may be  
2           made to an employment network pursuant to  
3           subsection (h) in connection with services pro-  
4           vided to any disabled beneficiary if such em-  
5           ployment network makes referrals described in  
6           subparagraph (A) in violation of the terms of  
7           the contract required under subparagraph (A)  
8           or without having entered into such a contract.

9           “(d) RESPONSIBILITIES OF THE COMMISSIONER OF  
10 SOCIAL SECURITY.—

11           “(1) SELECTION AND QUALIFICATIONS OF PRO-  
12           GRAM MANAGERS.—The Commissioner of Social Se-  
13           curity shall enter into agreements with one or more  
14           organizations in the private or public sector for serv-  
15           ice as a program manager to assist the Commis-  
16           sioner in administering the Program. Any such pro-  
17           gram manager shall be selected by means of a com-  
18           petitive bidding process, from among organizations  
19           in the private or public sector with available exper-  
20           tise and experience in the field of vocational rehabili-  
21           tation or employment services.

22           “(2) TENURE, RENEWAL, AND EARLY TERMI-  
23           NATION.—Each agreement entered into under para-  
24           graph (1) shall provide for early termination upon  
25           failure to meet performance standards which shall be

1 specified in the agreement and which shall be  
2 weighted to take into account any performance in  
3 prior terms. Such performance standards shall in-  
4 clude (but are not limited to)—

5 “(A) measures for ease of access by bene-  
6 ficiaries to services; and

7 “(B) measures for determining the extent  
8 to which failures in obtaining services for bene-  
9 ficiaries fall within acceptable parameters, as  
10 determined by the Commissioner.

11 “(3) PRECLUSION FROM DIRECT PARTICIPA-  
12 TION IN DELIVERY OF SERVICES IN OWN SERVICE  
13 AREA.—Agreements under paragraph (1) shall  
14 preclude—

15 “(A) direct participation by a program  
16 manager in the delivery of employment services,  
17 vocational rehabilitation services, or other sup-  
18 port services to beneficiaries in the service area  
19 covered by the program manager’s agreement;  
20 and

21 “(B) the holding by a program manager of  
22 a financial interest in an employment network  
23 or service provider which provides services in a  
24 geographic area covered under the program  
25 manager’s agreement.

1           “(4) SELECTION OF EMPLOYMENT NET-  
2 WORKS.—The Commissioner shall select and enter  
3 into agreements with employment networks for serv-  
4 ice under the Program. Such employment networks  
5 shall be in addition to State agencies serving as em-  
6 ployment networks pursuant to elections under sub-  
7 section (c).

8           “(5) TERMINATION OF AGREEMENTS WITH EM-  
9 PLOYMENT NETWORKS.—The Commissioner shall  
10 terminate agreements with employment networks for  
11 inadequate performance, as determined by the Com-  
12 missioner.

13           “(6) QUALITY ASSURANCE.—The Commissioner  
14 shall provide for such periodic reviews as are nec-  
15 essary to provide for effective quality assurance in  
16 the provision of services by employment networks.  
17 The Commissioner shall take into account the views  
18 of consumers and the program manager under which  
19 the employment networks serve and shall consult  
20 with providers of services to develop performance  
21 measurements. The Commissioner shall ensure that  
22 the results of the periodic reviews are made available  
23 to beneficiaries who are prospective service recipients  
24 as they select employment networks. The Commis-  
25 sioner shall ensure the performance of periodic sur-

1 veys of beneficiaries receiving services under the  
2 Program designed to measure customer service satis-  
3 faction.

4 “(7) DISPUTE RESOLUTION.—The Commis-  
5 sioner shall provide for a mechanism for resolving  
6 disputes between beneficiaries and employment net-  
7 works and between program managers and employ-  
8 ment networks. The Commissioner shall afford a  
9 party to such a dispute a reasonable opportunity for  
10 a full and fair review of the matter in dispute.

11 “(e) PROGRAM MANAGERS.—

12 “(1) IN GENERAL.—A program manager shall  
13 conduct tasks appropriate to assist the Commis-  
14 sioner in carrying out the Commissioner’s duties in  
15 administering the Program.

16 “(2) RECRUITMENT OF EMPLOYMENT NET-  
17 WORKS.—A program manager shall recruit, and rec-  
18 ommend for selection by the Commissioner, employ-  
19 ment networks for service under the Program. The  
20 program manager shall carry out such recruitment  
21 and provide such recommendations, and shall mon-  
22 itor all employment networks serving in the Program  
23 in the geographic area covered under the program  
24 manager’s agreement, to the extent necessary and  
25 appropriate to ensure that adequate choices of serv-

1       ices are made available to beneficiaries. Employment  
2       networks may serve under the Program only pursu-  
3       ant to an agreement entered into with the Commis-  
4       sioner under the Program incorporating the applica-  
5       ble provisions of this section and regulations there-  
6       under, and the program manager shall provide and  
7       maintain assurances to the Commissioner that pay-  
8       ment by the Commissioner to employment networks  
9       pursuant to this section is warranted based on com-  
10      pliance by such employment networks with the terms  
11      of such agreement and this section. The program  
12      manager shall not impose numerical limits on the  
13      number of employment networks to be recommended  
14      pursuant to this paragraph.

15           “(3) FACILITATION OF ACCESS BY BENE-  
16      FICIARIES TO EMPLOYMENT NETWORKS.—A pro-  
17      gram manager shall facilitate access by beneficiaries  
18      to employment networks. The program manager  
19      shall ensure that each beneficiary is allowed changes  
20      in employment networks for good cause, as deter-  
21      mined by the Commissioner, without being deemed  
22      to have rejected services under the Program. The  
23      program manager shall establish and maintain lists  
24      of employment networks available to beneficiaries  
25      and shall make such lists generally available to the



1 public. The program manager shall ensure that all  
2 information provided to disabled beneficiaries pursu-  
3 ant to this paragraph is provided in accessible for-  
4 mat.

5 “(4) ENSURING AVAILABILITY OF ADEQUATE  
6 SERVICES.—The program manager shall ensure that  
7 employment services, vocational rehabilitation serv-  
8 ices, and other support services are provided to  
9 beneficiaries throughout the geographic area covered  
10 under the program manager’s agreement, including  
11 rural areas.

12 “(5) REASONABLE ACCESS TO SERVICES.—The  
13 program manager shall take such measures as are  
14 necessary to ensure that sufficient employment net-  
15 works are available and that each beneficiary receiv-  
16 ing services under the Program has reasonable ac-  
17 cess to employment services, vocational rehabilitation  
18 services, and other support services. Such services  
19 may include case management, benefits counseling,  
20 supported employment, career planning, career plan  
21 development, vocational assessment, job training,  
22 placement, follow-up services, and such other serv-  
23 ices as may be specified by the Commissioner under  
24 the Program. The program manager shall ensure  
25 that such services are coordinated.

1       “(f) EMPLOYMENT NETWORKS.—

2               “(1) QUALIFICATIONS FOR EMPLOYMENT NET-  
3       WORKS.—Each employment network serving under  
4       the Program shall consist of an agency or instru-  
5       mentality of a State (or a political subdivision there-  
6       of) or a private entity, which assumes responsibility  
7       for the coordination and delivery of services under  
8       the Program to individuals assigning to the employ-  
9       ment network tickets to work and self-sufficiency  
10      issued under subsection (b). No employment network  
11      may serve under the Program unless it demonstrates  
12      to the Commissioner substantial expertise and expe-  
13      rience in the field of employment services, vocational  
14      rehabilitation services, or other support services for  
15      individuals with disabilities and provides an array of  
16      such services. An employment network shall consist  
17      of either a single provider of such services or of an  
18      association of such providers organized so as to com-  
19      bine their resources into a single entity. An employ-  
20      ment network may meet the requirements of sub-  
21      section (e)(4) by providing services directly, or by  
22      entering into agreements with other individuals or  
23      entities providing appropriate employment services,  
24      vocational rehabilitation services, or other support  
25      services.

1           “(2) REQUIREMENTS RELATING TO PROVISION  
2           OF SERVICES.—Each employment network serving  
3           under the Program shall be required under the  
4           terms of its agreement with the Commissioner to—

5                   “(A) serve prescribed service areas;

6                   “(B) meet, and maintain compliance with,  
7                   both general selection criteria (such as profes-  
8                   sional and governmental certification and edu-  
9                   cational credentials) and specific selection cri-  
10                  teria (such as the extent of work experience by  
11                  the provider with specific populations); and

12                  “(C) take such measures as are necessary  
13                  to ensure that employment services, vocational  
14                  rehabilitation services, and other support serv-  
15                  ices provided under the Program by, or under  
16                  agreements entered into with, the employment  
17                  network are provided under appropriate individ-  
18                  ual work plans meeting the requirements of  
19                  subsection (g).

20           “(3) ANNUAL FINANCIAL REPORTING.—Each  
21           employment network shall meet financial reporting  
22           requirements as prescribed by the Commissioner.

23           “(4) PERIODIC OUTCOMES REPORTING.—Each  
24           employment network shall prepare periodic reports,  
25           on at least an annual basis, itemizing for the covered

1 period specific outcomes achieved with respect to  
2 specific services provided by the employment net-  
3 work. Such reports shall conform to a national  
4 model prescribed under this section. Each employ-  
5 ment network shall provide a copy of the latest re-  
6 port issued by the employment network pursuant to  
7 this paragraph to each beneficiary upon enrollment  
8 under the Program for services to be received  
9 through such employment network. Upon issuance of  
10 each report to each beneficiary, a copy of the report  
11 shall be maintained in the files of the employment  
12 network pertaining to the beneficiary. The program  
13 manager shall ensure that copies of all such reports  
14 issued under this paragraph are made available to  
15 the public under reasonable terms.

16 “(g) INDIVIDUAL WORK PLANS.—

17 “(1) IN GENERAL.—Each employment network  
18 shall—

19 “(A) take such measures as are necessary  
20 to ensure that employment services, vocational  
21 rehabilitation services, and other support serv-  
22 ices provided under the Program by, or under  
23 agreements entered into with, the employment  
24 network are provided under appropriate individ-

1           ual work plans as defined by the Commissioner;  
2           and

3                   “(B) develop and implement each such in-  
4           dividual work plan, in the case of each bene-  
5           ficiary receiving such services, in a manner that  
6           affords such beneficiary the opportunity to ex-  
7           ercise informed choice in selecting an employ-  
8           ment goal and specific services needed to  
9           achieve that employment goal.

10          A beneficiary’s individual work plan shall take effect  
11          upon approval by the beneficiary.

12               “(2) VOCATIONAL EVALUATION.—In devising  
13          the work plan, the employment network shall under-  
14          take a vocational evaluation with respect to the ben-  
15          eficiary. Each vocational evaluation shall set forth in  
16          writing such elements and shall be in such format as  
17          the Commissioner shall prescribe. The Commissioner  
18          may provide for waiver by the beneficiary of such a  
19          vocational evaluation, subject to regulations which  
20          shall be prescribed by the Commissioner providing  
21          for the permissible timing of, and the circumstances  
22          permitting, such a waiver.

23               “(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

24                   “(1) ELECTION OF PAYMENT SYSTEM BY EM-  
25          PLOYMENT NETWORKS.—

1           “(A) IN GENERAL.—The Program shall  
2 provide for payment authorized by the Commis-  
3 sioner to employment networks under either an  
4 outcome payment system or an outcome-mile-  
5 stone payment system. Each employment net-  
6 work shall elect which payment system will be  
7 utilized by the employment network, and, for  
8 such period of time as such election remains in  
9 effect, the payment system so elected shall be  
10 utilized exclusively in connection with such em-  
11 ployment network (except as provided in sub-  
12 paragraph (B)).

13           “(B) METHOD OF PAYMENT TO EMPLOY-  
14 MENT NETWORKS.—Any such election by an  
15 employment network taking effect during any  
16 period for which a disabled beneficiary is receiv-  
17 ing services from such employment network  
18 shall not be effective with respect to such bene-  
19 ficiary to the extent that such election would re-  
20 sult in any change in the method of payment to  
21 the employment network with respect to serv-  
22 ices provided to such beneficiary from the meth-  
23 od of payment to the employment network with  
24 respect to services provided to such beneficiary  
25 as of immediately before such election.

1           “(2) OUTCOME PAYMENT SYSTEM.—

2                   “(A) IN GENERAL.—The outcome payment  
3           system shall consist of a payment structure gov-  
4           erning employment networks electing such sys-  
5           tem under paragraph (1)(A) which meets the  
6           requirements of this paragraph.

7                   “(B) PAYMENTS MADE DURING OUTCOME  
8           PAYMENT PERIOD.—The outcome payment sys-  
9           tem shall provide for a schedule of payments to  
10          an employment network, in connection with  
11          each individual who is a beneficiary, for each  
12          month, during the individual’s outcome pay-  
13          ment period, for which benefits (described in  
14          paragraphs (2) and (3) of subsection (k)) are  
15          not payable to such individual.

16                  “(C) COMPUTATION OF PAYMENTS TO EM-  
17          PLOYMENT NETWORK.—The payment schedule  
18          of the outcome payment system shall be de-  
19          signed so that—

20                         “(i) the payment for each of the 60  
21                         months during the outcome payment pe-  
22                         riod for which benefits (described in para-  
23                         graphs (2) and (3) of subsection (k)) are  
24                         not payable is equal to a fixed percentage  
25                         of the payment calculation base for the cal-

1           endar year in which such month occurs;  
2           and

3           “(ii) such fixed percentage is set at a  
4           percentage which does not exceed 40 per-  
5           cent.

6           “(3) OUTCOME-MILESTONE PAYMENT SYS-  
7           TEM.—

8           “(A) IN GENERAL.—The outcome-mile-  
9           stone payment system shall consist of a pay-  
10          ment structure governing employment networks  
11          electing such system under paragraph (1)(A)  
12          which meets the requirements of this para-  
13          graph.

14          “(B) EARLY PAYMENTS UPON ATTAIN-  
15          MENT OF MILESTONES IN ADVANCE OF OUT-  
16          COME PAYMENT PERIODS.—The outcome-mile-  
17          stone payment system shall provide for one or  
18          more milestones, with respect to beneficiaries  
19          receiving services from an employment network  
20          under the Program, which are directed toward  
21          the goal of permanent employment. Such mile-  
22          stones shall form a part of a payment structure  
23          which provides, in addition to payments made  
24          during outcome payment periods, payments  
25          made prior to outcome payment periods in



1 amounts based on the attainment of such mile-  
2 stones.

3 “(C) LIMITATION ON TOTAL PAYMENTS TO  
4 EMPLOYMENT NETWORK.—The payment sched-  
5 ule of the outcome milestone payment system  
6 shall be designed so that the total of the pay-  
7 ments to the employment network with respect  
8 to each beneficiary is less than, on a net  
9 present value basis (using an interest rate de-  
10 termined by the Commissioner that appro-  
11 priately reflects the cost of funds faced by pro-  
12 viders), the total amount to which payments to  
13 the employment network with respect to the  
14 beneficiary would be limited if the employment  
15 network were paid under the outcome payment  
16 system.

17 “(4) DEFINITIONS.—For purposes of this  
18 subsection—

19 “(A) PAYMENT CALCULATION BASE.—The  
20 term ‘payment calculation base’ means, for any  
21 calendar year—

22 “(i) in connection with a title II dis-  
23 ability beneficiary, the average disability  
24 insurance benefit payable under section

1           223 for all beneficiaries for months during  
2           the preceding calendar year; and

3           “(ii) in connection with a title XVI  
4           disability beneficiary (who is not concur-  
5           rently a title II disability beneficiary), the  
6           average payment of supplemental security  
7           income benefits based on disability payable  
8           under title XVI (excluding State sup-  
9           plementation) for months during the pre-  
10          ceding calendar year to all beneficiaries  
11          who have attained at least 18 years of age.

12          “(B) OUTCOME PAYMENT PERIOD.—The  
13          term ‘outcome payment period’ means, in con-  
14          nection with any individual who had assigned a  
15          ticket to work and self-sufficiency to an employ-  
16          ment network under the Program, a period—

17                 “(i) beginning with the first month,  
18                 ending after the date on which such ticket  
19                 was assigned to the employment network,  
20                 for which benefits (described in paragraphs  
21                 (2) and (3) of subsection (k)) are not pay-  
22                 able to such individual by reason of en-  
23                 gagement in work activity; and

24                 “(ii) ending with the 60th month  
25                 (consecutive or otherwise), ending after

1           such date, for which such benefits are not  
2           payable to such individual by reason of en-  
3           gagement in work activity.

4           “(5) PERIODIC REVIEW AND ALTERATIONS OF  
5           PRESCRIBED SCHEDULES.—

6           “(A) PERCENTAGES AND PERIODS.—The  
7           Commissioner of Social Security shall periodi-  
8           cally review the percentage specified in para-  
9           graph (2)(C), the total payments permissible  
10          under paragraph (3)(C), and the period of time  
11          specified in paragraph (4)(B) to determine  
12          whether such percentages, such permissible pay-  
13          ments, and such period provide an adequate in-  
14          centive for employment networks to assist bene-  
15          ficiaries to enter the workforce, while providing  
16          for appropriate economies. The Commissioner  
17          may alter such percentage, such total permis-  
18          sible payments, or such period of time to the  
19          extent that the Commissioner determines, on  
20          the basis of the Commissioner’s review under  
21          this paragraph, that such an alteration would  
22          better provide the incentive and economies de-  
23          scribed in the preceding sentence.

24          “(B) NUMBER AND AMOUNT OF MILE-  
25          STONE PAYMENTS.—The Commissioner shall

1 periodically review the number and amounts of  
2 milestone payments established by the Commis-  
3 sioner pursuant to this section to determine  
4 whether they provide an adequate incentive for  
5 employment networks to assist beneficiaries to  
6 enter the workforce, taking into account infor-  
7 mation provided to the Commissioner by pro-  
8 gram managers, the Ticket to Work and Self-  
9 Sufficiency Advisory Panel, and other reliable  
10 sources. The Commissioner may from time to  
11 time alter the number and amounts of mile-  
12 stone payments initially established by the  
13 Commissioner pursuant to this section to the  
14 extent that the Commissioner determines that  
15 such an alteration would allow an adequate in-  
16 centive for employment networks to assist bene-  
17 ficiaries to enter the workforce. Such alteration  
18 shall be based on information provided to the  
19 Commissioner by program managers, the Ticket  
20 to Work and Self-Sufficiency Advisory Panel, or  
21 other reliable sources.

22 “(i) SUSPENSION OF DISABILITY REVIEWS.—During  
23 any period for which an individual is using a ticket to work  
24 and self-sufficiency issued under this section, the Commis-  
25 sioner (and any applicable State agency) may not initiate

1 a continuing disability review or other review under section  
2 221 of whether the individual is or is not under a disability  
3 or a review under title XVI similar to any such review  
4 under section 221.

5 “(j) AUTHORIZATIONS.—

6 “(1) TITLE II DISABILITY BENEFICIARIES.—

7 There are authorized to be transferred from the  
8 Federal Old-Age and Survivors Insurance Trust  
9 Fund and the Federal Disability Insurance Trust  
10 Fund each fiscal year such sums as may be nec-  
11 essary to carry out the provisions of this section  
12 with respect to title II disability beneficiaries. Money  
13 paid from the Trust Funds under this section with  
14 respect to title II disability beneficiaries who are en-  
15 titled to benefits under section 223 or who are enti-  
16 tled to benefits under section 202(d) on the basis of  
17 the wages and self-employment income of such bene-  
18 ficiaries, shall be charged to the Federal Disability  
19 Insurance Trust Fund, and all other money paid  
20 from the Trust Funds under this section shall be  
21 charged to the Federal Old-Age and Survivors Insur-  
22 ance Trust Fund. The Commissioner of Social Secu-  
23 rity shall determine according to such methods and  
24 procedures as shall be prescribed under this  
25 section—

1           “(A) the total amount to be paid to pro-  
2           gram managers and employment networks  
3           under this section; and

4           “(B) subject to the provisions of the pre-  
5           ceding sentence, the amount which should be  
6           charged to each of the Trust Funds.

7           “(2) TITLE XVI DISABILITY BENEFICIARIES.—

8           Amounts authorized to be appropriated to the Social  
9           Security Administration under section 1601 (as in  
10          effect pursuant to the amendments made by section  
11          301 of the Social Security Amendments of 1972)  
12          shall include amounts necessary to carry out the  
13          provisions of this section with respect to title XVI  
14          disability beneficiaries.

15          “(k) DEFINITIONS.—For purposes of this section—

16               “(1) DISABLED BENEFICIARY.—The term ‘dis-  
17               abled beneficiary’ means a title II disability bene-  
18               fiary or a title XVI disability beneficiary.

19               “(2) TITLE II DISABILITY BENEFICIARY.—The  
20               term ‘title II disability beneficiary’ means an individ-  
21               ual entitled to disability insurance benefits under  
22               section 223 or to monthly insurance benefits under  
23               section 202 based on such individual’s disability (as  
24               defined in section 223(d)). An individual is a title II

1 disability beneficiary for each month for which such  
2 individual is entitled to such benefits.

3 “(3) TITLE XVI DISABILITY BENEFICIARY.—  
4 The term ‘title XVI disability beneficiary’ means an  
5 individual eligible for supplemental security income  
6 benefits under title XVI on the basis of blindness  
7 (within the meaning of section 1614(a)(2)) or dis-  
8 ability (within the meaning of section 1614(a)(3)).  
9 An individual is a title XVI disability beneficiary for  
10 each month for which such individual is eligible for  
11 such benefits.

12 “(4) SUPPLEMENTAL SECURITY INCOME BENE-  
13 FIT.—The term ‘supplemental security income bene-  
14 fit under title XVI’ means a cash benefit under sec-  
15 tion 1611 or 1619(a), and does not include a State  
16 supplementary payment, administered federally or  
17 otherwise.

18 “(l) REGULATIONS.—The Commissioner of Social Se-  
19 curity shall prescribe such regulations as are necessary to  
20 carry out the provisions of this section.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) AMENDMENTS TO TITLE II.—

23 (A) Section 221(c) of such Act (42 U.S.C.  
24 421(c)) is amended by adding at the end the  
25 following new paragraph:

1       “(4) For suspension of reviews under this subsection  
2 in the case of an individual using a ticket to work and  
3 self-sufficiency, see section 1148(i).”.

4               (B) Section 222(a) of such Act (42 U.S.C.  
5       422(a)) is repealed.

6               (C) Section 222(b) of such Act (42 U.S.C.  
7       422(b)) is repealed.

8               (D) Section 225(b)(1) of such Act (42  
9       U.S.C. 425(b)(1)) is amended by striking “a  
10       program of vocational rehabilitation services”  
11       and inserting “a program consisting of the  
12       Ticket to Work and Self-Sufficiency Program  
13       under section 1148 or another program of voca-  
14       tional rehabilitation services, employment serv-  
15       ices, or other support services”.

16       (2) AMENDMENTS TO TITLE XVI.—

17               (A) Section 1615(a) of such Act (42  
18       U.S.C. 1382d(a)) is amended to read as follows:

19       “SEC. 1615. (a) In the case of any blind or disabled  
20 individual who—

21               “(1) has not attained age 16; and

22               “(2) with respect to whom benefits are paid  
23       under this title,



1 the Commissioner of Social Security shall make provision  
2 for referral of such individual to the appropriate State  
3 agency administering the State program under title V.”.

4 (B) Section 1615(c) of such Act (42  
5 U.S.C. 1382d(c)) is repealed.

6 (C) Section 1631(a)(6)(A) of such Act (42  
7 U.S.C. 1383(a)(6)(A)) is amended by striking  
8 “a program of vocational rehabilitation serv-  
9 ices” and inserting “a program consisting of  
10 the Ticket to Work and Self-Sufficiency Pro-  
11 gram under section 1148 or another program of  
12 vocational rehabilitation services, employment  
13 services, or other support services”.

14 (D) Section 1633(c) of such Act (42  
15 U.S.C. 1383b(c)) is amended—

16 (i) by inserting “(1)” after “(c)”; and

17 (ii) by adding at the end the following  
18 new paragraph:

19 “(2) For suspension of continuing disability reviews  
20 and other reviews under this title similar to reviews under  
21 section 221 in the case of an individual using a ticket to  
22 work and self-sufficiency, see section 1148(i).”.

23 (c) SPECIFIC REGULATIONS REQUIRED.—

24 (1) IN GENERAL.—The Commissioner of Social  
25 Security shall prescribe such regulations as are nec-

1       essary to implement the amendments made by this  
2       section.

3               (2) SPECIFIC MATTERS TO BE INCLUDED IN  
4       REGULATIONS.—The matters which shall be ad-  
5       dressed in such regulations shall include (but are not  
6       limited to)—

7               (A) the form and manner in which tickets  
8       to work and self-sufficiency may be distributed  
9       to beneficiaries pursuant to section 1148(b)(1)  
10       of such Act;

11              (B) the format and wording of such tick-  
12       ets, which shall incorporate by reference any  
13       contractual terms governing service by employ-  
14       ment networks under the Program;

15              (C) the form and manner in which State  
16       agencies may elect participation in the Ticket to  
17       Work and Self-Sufficiency Program (and revoke  
18       such an election) pursuant to section  
19       1148(c)(1) of such Act and provision for peri-  
20       odic opportunities for exercising such elections  
21       (and revocations);

22              (D) the status of State agencies under sec-  
23       tion 1148(c)(2) at the time that State agencies  
24       exercise elections (and revocations) under such  
25       section 1148(c)(1);

1 (E) the terms of agreements to be entered  
2 into with program managers pursuant to sec-  
3 tion 1148(d) of such Act, including (but not  
4 limited to)—

5 (i) the terms by which program man-  
6 agers are precluded from direct participa-  
7 tion in the delivery of services pursuant to  
8 section 1148(d)(3) of such Act;

9 (ii) standards which must be met by  
10 quality assurance measures referred to in  
11 paragraph (6) of section 1148(d) and  
12 methods of recruitment of employment net-  
13 works utilized pursuant to paragraph (2)  
14 of section 1148(e); and

15 (iii) the format under which dispute  
16 resolution will operate under section  
17 1148(d)(7).

18 (F) the terms of agreements to be entered  
19 into with employment networks pursuant to sec-  
20 tion 1148(d)(4) of such Act, including (but not  
21 limited to)—

22 (i) the manner in which service areas  
23 are specified pursuant to section  
24 1148(f)(2)(A) of such Act;

1           (ii) the general selection criteria and  
2           the specific selection criteria which are ap-  
3           plicable to employment networks under  
4           section 1148(f)(2)(B) of such Act in select-  
5           ing service providers;

6           (iii) specific requirements relating to  
7           annual financial reporting by employment  
8           networks pursuant to section 1148(f)(3) of  
9           such Act; and

10          (iv) the national model to which peri-  
11          odic outcomes reporting by employment  
12          networks must conform under section  
13          1148(f)(4) of such Act;

14          (G) standards which must be met by indi-  
15          vidual work plans pursuant to section 1148(g)  
16          of such Act;

17          (H) standards which must be met by pay-  
18          ment systems required under section 1148(h) of  
19          such Act, including (but not limited to)—

20               (i) the form and manner in which  
21               elections by employment networks of pay-  
22               ment systems are to be exercised pursuant  
23               to section 1148(h)(1)(A);

1 (ii) the terms which must be met by  
2 an outcome payment system under section  
3 1148(h)(2);

4 (iii) the terms which must be met by  
5 an outcome-milestone payment system  
6 under section 1148(h)(3);

7 (iv) any revision of the percentage  
8 specified in paragraph (2)(C) of section  
9 1148(h) of such Act or the period of time  
10 specified in paragraph (4)(B) of such sec-  
11 tion 1148(h); and

12 (v) annual oversight procedures for  
13 such systems; and

14 (I) procedures for effective oversight of the  
15 Program by the Commissioner of Social Secu-  
16 rity, including periodic reviews and reporting  
17 requirements.

18 (d) WORK INCENTIVE SPECIALISTS.—The Commis-  
19 sioner shall establish a corps of trained, accessible, and  
20 responsive work incentive specialists to specialize in title  
21 II and title XVI disability work incentives for the purpose  
22 of disseminating accurate information to disabled bene-  
23 ficiaries (as defined in section 1148(k)(1) of the Social  
24 Security Act as amended by this section) with respect to  
25 inquiries and issues relating to work incentives.

1 **SEC. 202. EFFECTIVE DATE.**

2 Subject to section 203, the amendments made by sec-  
3 tion 201 shall take effect with the first month following  
4 one year after the date of the enactment of this Act.

5 **SEC. 203. GRADUATED IMPLEMENTATION OF PROGRAM.**

6 (a) **IN GENERAL.**—Not later than one year after the  
7 date of the enactment of this Act, the Commissioner of  
8 Social Security shall commence implementation of the  
9 amendments made by section 201 (other than paragraphs  
10 (1)(C) and (2)(B) of section 201(b)) in graduated phases  
11 at phase-in sites selected by the Commissioner. Such  
12 phase-in sites shall be selected so as to ensure, prior to  
13 full implementation of the Ticket to Work and Self-Suffi-  
14 ciency Program, the development and refinement of refer-  
15 ral processes, payment systems, computer linkages, man-  
16 agement information systems, and administrative proc-  
17 esses necessary to provide for full implementation of such  
18 amendments. Section 202 shall apply with respect to para-  
19 graphs (1)(C) and (2)(B) of section 201(b) without regard  
20 to this section.

21 (b) **REQUIREMENTS.**—Implementation of the Pro-  
22 gram at each phase-in site shall be carried out on a wide  
23 enough scale to permit a thorough evaluation of the alter-  
24 native methods under consideration, so as to ensure that  
25 the most efficacious methods are determined and in place  
26 for full implementation of the Program on a timely basis.

1 (c) FULL IMPLEMENTATION.—The Commissioner  
2 shall ensure that the Program is fully implemented as  
3 soon as practicable on or after the effective date specified  
4 in section 202 but not later than six years after such date.

5 (d) ONGOING EVALUATION OF PROGRAM.—

6 (1) IN GENERAL.—The Commissioner shall de-  
7 sign and conduct a series of evaluations to assess  
8 the cost-effectiveness of activities carried out under  
9 this title and the amendments made thereby, as well  
10 as the effects of this title and the amendments made  
11 thereby on work outcomes for beneficiaries receiving  
12 tickets to work and self-sufficiency under the Pro-  
13 gram.

14 (2) METHODOLOGY.—

15 (A) DESIGN AND IMPLEMENTATION.—The  
16 Commissioner shall design the series of evalua-  
17 tions after receiving relevant advice from ex-  
18 perts in the fields of disability, vocational reha-  
19 bilitation, and program evaluation and individ-  
20 uals using tickets to work and self-sufficiency  
21 under the Program. In designing and carrying  
22 out such evaluations, the Commissioner shall  
23 consult with the Comptroller General of the  
24 United States and other agencies of the Federal  
25 Government and with private organizations with

1 appropriate expertise. Before provision of serv-  
2 ices begins under any phase of Program imple-  
3 mentation, the Commissioner shall ensure that  
4 plans for such evaluations and data collection  
5 methods are in place and ready for implementa-  
6 tion.

7 (B) SPECIFIC MATTERS TO BE AD-  
8 DRESSED.—Each such evaluation shall address  
9 (but is not limited to):

10 (i) the annual cost (including net  
11 cost) of the Program and the annual cost  
12 (including net cost) that would have been  
13 incurred in the absence of the Program;

14 (ii) the determinants of return to  
15 work, including the characteristics of bene-  
16 ficiaries in receipt of tickets under the Pro-  
17 gram;

18 (iii) the types of employment services,  
19 vocational rehabilitation services, and other  
20 support services furnished to beneficiaries  
21 in receipt of tickets under the Program  
22 who return to work and to those who do  
23 not return to work;

24 (iv) the duration of employment serv-  
25 ices, vocational rehabilitation services, and



1 other support services furnished to bene-  
2 ficiaries in receipt of tickets under the Pro-  
3 gram who return to work and the duration  
4 of such services furnished to those who do  
5 not return to work and the cost to employ-  
6 ment networks of furnishing such services;

7 (v) the employment outcomes, includ-  
8 ing wages, occupations, benefits, and hours  
9 worked, of beneficiaries who return to work  
10 after receiving tickets under the Program  
11 and those who return to work without re-  
12 ceiving such tickets;

13 (vi) the characteristics of providers  
14 whose services are provided within an em-  
15 ployment network under the Program;

16 (vii) the extent (if any) to which em-  
17 ployment networks display a greater will-  
18 ingness to provide services to disabled  
19 beneficiaries;

20 (viii) the characteristics (including  
21 employment outcomes) of those bene-  
22 ficiaries who receive services under the out-  
23 come payment system and of those bene-  
24 ficiaries who receive services under the out-  
25 come-milestone payment system;

1                   (ix) measures of satisfaction among  
2                   beneficiaries in receipt of tickets under the  
3                   Program; and

4                   (x) reasons for (including comments  
5                   solicited from beneficiaries regarding) their  
6                   choice not to use their tickets or their in-  
7                   ability to return to work despite the use of  
8                   thier tickets.

9                   (3) PERIODIC EVALUATION REPORTS.—Follow-  
10                  ing the close of the third and fifth fiscal years end-  
11                  ing after the effective date under section 202, and  
12                  prior to the close of the seventh fiscal year ending  
13                  after such date, the Commissioner shall transmit to  
14                  the Committee on Ways and Means of the House of  
15                  Representatives and the Committee on Finance of  
16                  the Senate a report containing the Commissioner's  
17                  evaluation of the progress of activities conducted  
18                  under the provisions of this section and the amend-  
19                  ments made thereby. Each such report shall set  
20                  forth the Commissioner's evaluation of the extent to  
21                  which the Program has been successful and the  
22                  Commissioner's conclusions on whether or how the  
23                  Program should be modified. Each such report shall  
24                  include such data, findings, materials, and rec-

1       ommendations as the Commissioner may consider  
2       appropriate.

3       (e) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL  
4 IN ADVANCE OF FULL IMPLEMENTATION OF AMEND-  
5 MENTS IN SUCH STATE.—

6           (1) IN GENERAL.—In the case of any State in  
7       which the amendments made by section 201 have  
8       not been fully implemented pursuant to this section,  
9       the Commissioner shall determine by regulation the  
10      extent to which—

11           (A) the requirement under section 222(a)  
12      of the Social Security Act for prompt referrals  
13      to a State agency; and

14           (B) the authority of the Commissioner  
15      under section 222(d)(2) of such Act to provide  
16      vocational rehabilitation services in such State  
17      by agreement or contract with other public or  
18      private agencies, organizations, institutions, or  
19      individuals,

20      shall apply in such State.

21           (2) EXISTING AGREEMENTS.—Nothing in para-  
22      graph (1) or the amendments made by section 201  
23      shall be construed to limit, impede, or otherwise af-  
24      fect any agreement entered into pursuant to section  
25      222(d)(2) of the Social Security Act before the date

1 of the enactment of this Act with respect to services  
2 provided pursuant to such agreement to beneficiaries  
3 receiving services under such agreement as of such  
4 date, except with respect to services (if any) to be  
5 provided after six years after the effective date pro-  
6 vided in section 202.

7 **SEC. 204. THE TICKET TO WORK AND SELF-SUFFICIENCY**  
8 **ADVISORY PANEL.**

9 (a) **ESTABLISHMENT.**—There is established in the ex-  
10 ecutive branch a panel to be known as the “Ticket to Work  
11 and Self-Sufficiency Advisory Panel” (in this section re-  
12 ferred to as the “Panel”).

13 (b) **DUTIES OF PANEL.**—It shall be the duty of the  
14 Panel to—

15 (1) advise the Commissioner of Social Security  
16 on establishing phase-in sites for the Ticket to Work  
17 and Self-Sufficiency Program and on fully imple-  
18 menting the Program thereafter;

19 (2) advise the Commissioner with respect to the  
20 refinement of access of disabled beneficiaries to em-  
21 ployment networks, payment systems, and manage-  
22 ment information systems and advise the Commis-  
23 sioner whether such measures are being taken to the  
24 extent necessary to ensure the success of the Pro-  
25 gram;

1           (3) advise the Commissioner regarding the most  
2 effective designs for research and demonstration  
3 projects associated with the Program or conducted  
4 pursuant to section 205(a);

5           (4) advise the Commissioner on the develop-  
6 ment of performance measurements relating to qual-  
7 ity assurance under section 1148(d)(6) of the Social  
8 Security Act; and

9           (5) furnish progress reports on the Program to  
10 the President and each House of the Congress.

11 (c) MEMBERSHIP.—

12           (1) NUMBER AND APPOINTMENT.—The Panel  
13 shall be composed of six members as follows:

14           (A) one member appointed by the Chair-  
15 man of the Committee on Ways and Means of  
16 the House of Representatives;

17           (B) one member appointed by the ranking  
18 minority member of the Committee on Ways  
19 and Means of the House of Representatives;

20           (C) one member appointed by the Chair-  
21 man of the Committee on Finance of the Sen-  
22 ate;

23           (D) one member appointed by the ranking  
24 minority member of the Committee on Finance  
25 of the Senate; and

1 (E) two members appointed by the Presi-  
2 dent, who may not be of the same political  
3 party.

4 (2) REPRESENTATION.—Of the members ap-  
5 pointed under paragraph (1), at least four shall have  
6 experience or expert knowledge as a recipient, pro-  
7 vider, employer, or employee in the fields of, or re-  
8 lated to, employment services, vocational rehabilita-  
9 tion services, and other support services, of whom—

10 (A) at least one shall represent the inter-  
11 ests of recipients of employment services, voca-  
12 tional rehabilitation services, and other support  
13 services;

14 (B) at least one shall represent the inter-  
15 ests of providers of employment services, voca-  
16 tional rehabilitation services, and other support  
17 services;

18 (C) at least one shall represent the inter-  
19 ests of private employers;

20 (D) at least one shall represent the inter-  
21 ests of employees; and

22 (E) at least one shall be an individual who  
23 is or has been a recipient of benefits under title  
24 II or title XVI based on disability.

25 (3) TERMS.—

1 (A) IN GENERAL.—Each member shall be  
2 appointed for a term of 4 years (or, if less, for  
3 the remaining life of the Panel), except as pro-  
4 vided in subparagraphs (B) and (C). The initial  
5 members shall be appointed not later than 90  
6 days after the date of the enactment of this  
7 Act.

8 (B) TERMS OF INITIAL APPOINTEES.—As  
9 designated by the President at the time of ap-  
10 pointment, of the members first appointed—

11 (i) three of the members appointed  
12 under paragraph (1) shall be appointed for  
13 a term of 2 years; and

14 (ii) three of the members appointed  
15 under paragraph (1) shall be appointed for  
16 a term of 4 years.

17 (C) VACANCIES.—Any member appointed  
18 to fill a vacancy occurring before the expiration  
19 of the term for which the member's predecessor  
20 was appointed shall be appointed only for the  
21 remainder of that term. A member may serve  
22 after the expiration of that member's term until  
23 a successor has taken office. A vacancy in the  
24 Panel shall be filled in the manner in which the  
25 original appointment was made.

1           (4) BASIC PAY.—Members shall each be paid at  
2           a rate equal to the daily equivalent of the rate of  
3           basic pay for level 4 of the Senior Executive Service,  
4           as in effect from time to time under section 5382 of  
5           title 5, United States Code, for each day (including  
6           travel time) during which they are engaged in the  
7           actual performance of duties vested in the Panel.

8           (5) TRAVEL EXPENSES.—Each member shall  
9           receive travel expenses, including per diem in lieu of  
10          subsistence, in accordance with sections 5702 and  
11          5703 of title 5, United States Code.

12          (6) QUORUM.—Four members of the Panel  
13          shall constitute a quorum but a lesser number may  
14          hold hearings.

15          (7) CHAIRPERSON.—The Chairperson of the  
16          Panel shall be designated by the President. The  
17          term of office of the Chairperson shall be 4 years.

18          (8) MEETINGS.—The Panel shall meet at least  
19          quarterly and at other times at the call of the Chair-  
20          person or a majority of its members.

21          (d) DIRECTOR AND STAFF OF PANEL; EXPERTS AND  
22          CONSULTANTS.—

23                 (1) DIRECTOR.—The Panel shall have a Direc-  
24                 tor who shall be appointed by the Panel. The Direc-  
25                 tor shall be paid at a rate not to exceed the maxi-



1       mum rate of pay payable for GS-15 of the General  
2       Schedule.

3           (2) STAFF.—Subject to rules prescribed by the  
4       Panel, the Director may appoint and fix the pay of  
5       additional personnel as the Director considers appro-  
6       priate.

7           (3) EXPERTS AND CONSULTANTS.—Subject to  
8       rules prescribed by the Panel, the Director may pro-  
9       cure temporary and intermittent services under sec-  
10      tion 3109(b) of title 5, United States Code.

11          (4) STAFF OF FEDERAL AGENCIES.—Upon re-  
12      quest of the Panel, the head of any Federal depart-  
13      ment or agency may detail, on a reimbursable basis,  
14      any of the personnel of that department or agency  
15      to the Panel to assist it in carrying out its duties  
16      under this Act.

17      (e) POWERS OF PANEL.—

18          (1) HEARINGS AND SESSIONS.—The Panel may,  
19      for the purpose of carrying out its duties under this  
20      subsection, hold such hearings, sit and act at such  
21      times and places, and take such testimony and evi-  
22      dence as the Panel considers appropriate.

23          (2) POWERS OF MEMBERS AND AGENTS.—Any  
24      member or agent of the Panel may, if authorized by

1 the Panel, take any action which the Panel is au-  
2 thorized to take by this section.

3 (3) **MAILS.**—The Panel may use the United  
4 States mails in the same manner and under the  
5 same conditions as other departments and agencies  
6 of the United States.

7 (4) **ADMINISTRATIVE SUPPORT SERVICES.**—  
8 Upon the request of the Panel, the Administrator of  
9 General Services shall provide to the Panel, on a re-  
10 imburseable basis, the administrative support services  
11 necessary for the Panel to carry out its duties under  
12 this subsection.

13 (f) **REPORTS.**—

14 (1) **INTERIM REPORTS.**—The Panel shall sub-  
15 mit to the President and the Congress interim re-  
16 ports at least annually.

17 (2) **FINAL REPORT.**—The Panel shall transmit  
18 a final report to the President and the Congress not  
19 later than eight years after the date of the enact-  
20 ment of this Act. The final report shall contain a de-  
21 tailed statement of the findings and conclusions of  
22 the Panel, together with its recommendations for  
23 legislation and administrative actions which the  
24 Panel considers appropriate.

1 (g) TERMINATION.—The Panel shall terminate 30  
2 days after the date of the submission of its final report  
3 under subsection (f)(2).

4 (h) AUTHORIZATION OF APPROPRIATIONS.—There  
5 are authorized to be appropriated from the Federal Old-  
6 Age and Survivors Insurance Trust Fund, the Federal  
7 Disability Insurance Trust Fund, and the general fund of  
8 the Treasury, as appropriate, such sums as are necessary  
9 to carry out this section.

10 **SEC. 205. DEMONSTRATION PROJECTS AND STUDIES.**

11 (a) DEMONSTRATION PROJECTS PROVIDING FOR RE-  
12 Ductions IN DISABILITY INSURANCE BENEFITS BASED  
13 ON EARNINGS. —

14 (1) AUTHORITY.—The Commissioner shall con-  
15 duct demonstration projects for the purpose of eval-  
16 uating, through the collection of data, a program for  
17 title II disability beneficiaries (as defined in section  
18 1148(k)(2) of the Social Security Act, as amended  
19 by this Act) under which each \$1 of benefits payable  
20 under section 223, or under section 202 based on  
21 the beneficiary's disability, is reduced for each \$2 of  
22 such beneficiary's earnings that is above a level to  
23 be determined by the Commissioner. Such projects  
24 shall be conducted at a number of localities which  
25 the Commissioner shall determine is sufficient to

1 adequately evaluate the appropriateness of national  
2 implementation of such a program. Such projects  
3 shall identify reductions in Federal expenditures  
4 that may result from the permanent implementation  
5 of such a program.

6 (2) SCOPE AND SCALE AND MATTERS TO BE  
7 DETERMINED.—

8 (A) IN GENERAL.—The demonstration  
9 projects developed under paragraph (1) shall be  
10 of sufficient duration, shall be of sufficient  
11 scope, and shall be carried out on a wide  
12 enough scale to permit a thorough evaluation of  
13 the project to determine—

14 (i) the effects, if any, of induced entry  
15 and reduced exit;

16 (ii) the extent, if any, to which the  
17 project being tested is affected by whether  
18 it is in operation in a locality within an  
19 area under the administration of the Tick-  
20 et to Work and Self-Sufficiency Program;  
21 and

22 (iii) the savings that accrue to the  
23 Trust Funds and other Federal programs  
24 under the project being tested.

1 The Commissioner shall take into account ad-  
2 vice provided by the Ticket to Work and Self-  
3 Sufficiency Advisory Panel pursuant to sub-  
4 section (e)(2)(C).

5 (B) ADDITIONAL MATTERS.—The Commis-  
6 sioner shall also determine with respect to each  
7 project—

8 (i) the annual cost (including net  
9 cost) of the project and the annual cost  
10 (including net cost) that would have been  
11 incurred in the absence of the project;

12 (ii) the determinants of return to  
13 work, including the characteristics of the  
14 beneficiaries who participate in the project;  
15 and

16 (iii) the employment outcomes, includ-  
17 ing wages, occupations, benefits, and hours  
18 worked, of beneficiaries who return to work  
19 as a result of participation in the project.

20 The Commissioner may include within the mat-  
21 ters evaluated under the project the merits of  
22 trial work periods and periods of extended eligi-  
23 bility.

24 (3) WAIVERS.—The Commissioner may waive  
25 compliance with the benefit provisions of title II of

1 the Social Security Act, and the Secretary of Health  
2 and Human Services may waive compliance with the  
3 benefit requirements of title XVIII of such Act, in  
4 so far as is necessary for a thorough evaluation of  
5 the alternative methods under consideration. No  
6 such project shall be actually placed in operation un-  
7 less at least 90 days prior thereto a written report,  
8 prepared for purposes of notification and informa-  
9 tion only and containing a full and complete descrip-  
10 tion thereof, has been transmitted by the Commis-  
11 sioner to the Committee on Ways and Means of the  
12 House of Representatives and to the Committee on  
13 Finance of the Senate. Periodic reports on the  
14 progress of such projects shall be submitted by the  
15 Commissioner to such committees. When appro-  
16 priate, such reports shall include detailed rec-  
17 ommendations for changes in administration or law,  
18 or both, to carry out the objectives stated in para-  
19 graph (1).

20 (4) INTERIM REPORTS.—On or before June 9  
21 in 2001 and each of the succeeding years thereafter,  
22 the Commissioner shall submit to the Congress an  
23 interim report on the progress of the demonstration  
24 projects carried out under this subsection together

1 with any related data and materials which the Com-  
2 missioner may consider appropriate.

3 (5) FINAL REPORT.—The Commissioner shall  
4 submit to the Congress a final report with respect  
5 to all demonstration projects carried out under this  
6 section no later than one year after their completion.

7 (6) EXPENDITURES.—Expenditures made for  
8 demonstration projects under this subsection shall  
9 be made from the Federal Disability Insurance  
10 Trust Fund and the Federal Old-Age and Survivors  
11 Insurance Trust Fund, as determined appropriate by  
12 the Commissioner, and from the Federal Hospital  
13 Insurance Trust Fund and the Federal Supple-  
14 mentary Medical Insurance Trust Fund, as deter-  
15 mined appropriate by the Secretary of Health and  
16 Human Services, to the extent provided in advance  
17 in appropriation Acts.

18 (b) STUDY BY GENERAL ACCOUNTING OFFICE OF  
19 EXISTING DISABILITY-RELATED EMPLOYMENT INCEN-  
20 TIVES.—

21 (1) STUDY.—As soon as practicable after the  
22 date of the enactment of this Act, the Comptroller  
23 General of the United States shall undertake a study  
24 to assess existing tax credits and other disability-re-  
25 lated employment incentives under the Americans

1 with Disabilities Act of 1990 and other Federal  
2 laws. In such study, the Comptroller General shall  
3 specifically address the extent to which such credits  
4 and other incentives would encourage employers to  
5 hire and retain individuals with disabilities under the  
6 Ticket to Work and Self-Sufficiency Program.

7 (2) REPORT.—Not later than 3 years after the  
8 date of the enactment of this Act, the Comptroller  
9 General shall transmit to the Committee on Ways  
10 and Means of the House of Representatives and the  
11 Committee on Finance of the Senate a written re-  
12 port presenting the results of the Comptroller Gen-  
13 eral's study conducted pursuant to this subsection,  
14 together with such recommendations for legislative  
15 or administrative changes as the Comptroller Gen-  
16 eral may determine to be appropriate.

17 (c) STUDY BY GENERAL ACCOUNTING OFFICE OF  
18 EXISTING COORDINATION OF THE DI AND SSI PROGRAMS  
19 AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAV-  
20 ING CONCURRENT ENTITLEMENT.—

21 (1) STUDY.—As soon as practicable after the  
22 date of the enactment of this Act, the Comptroller  
23 General of the United States shall undertake a study  
24 to evaluate the coordination under current law of the  
25 disability insurance program under title II of the So-



1       cial Security Act and the supplemental security in-  
2       come program under title XVI of such Act, as such  
3       programs relate to individuals entering or leaving  
4       concurrent entitlement under such programs. In  
5       such study, the Comptroller General shall specifically  
6       address the effectiveness of work incentives under  
7       such programs with respect to such individuals and  
8       the effectiveness of coverage of such individuals  
9       under titles XVIII and XIX of such Act.

10       (2) REPORT.—Not later than 18 months after  
11       the date of the enactment of this Act, the Comptrol-  
12       ler General shall transmit to the Committee on  
13       Ways and Means of the House of Representatives  
14       and the Committee on Finance of the Senate a writ-  
15       ten report presenting the results of the Comptroller  
16       General's study conducted pursuant to this sub-  
17       section, together with such recommendations for leg-  
18       islative or administrative changes as the Comptroller  
19       General may determine to be appropriate.

## 20                   **TITLE III—TECHNICAL** 21                   **AMENDMENTS**

### 22       **SEC. 301. TECHNICAL AMENDMENTS RELATING TO DRUG** 23                   **ADDICTS AND ALCOHOLICS.**

24       (a) CLARIFICATION RELATING TO THE EFFECTIVE  
25       DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY

1 BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Sec-  
2 tion 105(a)(5) of the Contract with America Advancement  
3 Act of 1996 (Public Law 104–121; 110 Stat. 853) is  
4 amended—

5 (1) in subparagraph (A), by striking “by the  
6 Commissioner of Social Security” and “by the Com-  
7 missioner”; and

8 (2) by adding at the end the following:

9 “(D) For purposes of this paragraph, an  
10 individual’s claim, with respect to benefits  
11 under title II of the Social Security Act based  
12 on disability, which has been denied in whole  
13 before the date of enactment of this Act, may  
14 not be considered to be finally adjudicated be-  
15 fore such date if, on or after such date—

16 “(i) there is pending a request for ei-  
17 ther administrative or judicial review with  
18 respect to such claim, or

19 “(ii) there is pending, with respect to  
20 such claim, a readjudication by the Com-  
21 missioner of Social Security pursuant to  
22 relief in a class action or implementation  
23 by the Commissioner of a court remand  
24 order.

1           “(E) Notwithstanding the provisions of  
2           this paragraph, with respect to any individual  
3           for whom the Commissioner of Social Security  
4           does not perform the entitlement redetermina-  
5           tion before the date prescribed in subparagraph  
6           (C), the Commissioner shall perform such enti-  
7           tlement redetermination in lieu of a continuing  
8           disability review whenever the Commissioner de-  
9           termines that the individual’s entitlement is  
10          subject to redetermination based on the preced-  
11          ing provisions of this paragraph, and the provi-  
12          sions of section 223(f) of the Social Security  
13          Act shall not apply to such redetermination.”.

14          (b) CORRECTION TO EFFECTIVE DATE OF PROVI-  
15          SIONS CONCERNING REPRESENTATIVE PAYEES AND  
16          TREATMENT REFERRALS OF SOCIAL SECURITY BENE-  
17          FICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—  
18          Section 105(a)(5)(B) of the Contract with America Ad-  
19          vancement Act of 1996 (42 U.S.C. 405 note) is amended  
20          to read as follows:

21                 “(B) The amendments made by para-  
22                 graphs (2) and (3) shall take effect on July 1,  
23                 1996, with respect to any individual—

1                   “(i) whose claim for benefits is finally  
2                   adjudicated on or after the date of enact-  
3                   ment of this Act; or

4                   “(ii) whose entitlement to benefits is  
5                   based on an entitlement redetermination  
6                   made pursuant to subparagraph (C).”.

7           (c) **EFFECTIVE DATES.**—The amendments made by  
8 this section shall take effect as if included in the enact-  
9 ment of section 105 of the Contract with America Ad-  
10 vancement Act of 1996 (Public Law 104–121; 110 Stat.  
11 852 et seq.).

12 **SEC. 302. TREATMENT OF PRISONERS.**

13           (a) **IMPLEMENTATION OF PROHIBITION AGAINST**  
14 **PAYMENT OF TITLE II BENEFITS TO PRISONERS.**—

15                   (1) **IN GENERAL.**—Section 202(x)(3) of the So-  
16 cial Security Act (42 U.S.C. 402(x)(3)) is  
17 amended—

18                           (A) by inserting “(A)” after “(3)”; and

19                           (B) by adding at the end the following:

20                   “(B)(i) The Commissioner shall enter into an agree-  
21 ment under this subparagraph with any interested State  
22 or local institution comprising a jail, prison, penal institu-  
23 tion, or correctional facility, or comprising any other insti-  
24 tution a purpose of which is to confine individuals as de-  
25 scribed in paragraph (1)(A)(ii). Under such agreement—

1           “(I) the institution shall provide to the Com-  
2           missioner, on a monthly basis and in a manner spec-  
3           ified by the Commissioner, the names, Social Secu-  
4           rity account numbers, dates of birth, confinement  
5           commencement dates, and, to the extent available to  
6           the institution, such other identifying information  
7           concerning the individuals confined in the institution  
8           as the Commissioner may require for the purpose of  
9           carrying out paragraph (1); and

10           “(II) the Commissioner shall pay to the institu-  
11           tion, with respect to information described in sub-  
12           clause (I) concerning each individual who is confined  
13           therein as described in paragraph (1)(A), who re-  
14           ceives a benefit under this title for the month pre-  
15           ceding the first month of such confinement, and  
16           whose benefit under this title is determined by the  
17           Commissioner to be not payable by reason of con-  
18           finement based on the information provided by the  
19           institution, \$400 (subject to reduction under clause  
20           (ii)) if the institution furnishes the information to  
21           the Commissioner within 30 days after the date such  
22           individual’s confinement in such institution begins,  
23           or \$200 (subject to reduction under clause (ii)) if  
24           the institution furnishes the information after 30

1       days after such date but within 90 days after such  
2       date.

3       “(ii) The dollar amounts specified in clause (i)(II)  
4 shall be reduced by 50 percent if the Commissioner is also  
5 required to make a payment to the institution with respect  
6 to the same individual under an agreement entered into  
7 under section 1611(e)(1)(I).

8       “(iii) The provisions of section 552a of title 5, United  
9 States Code, shall not apply to any agreement entered into  
10 under clause (i) or to information exchanged pursuant to  
11 such agreement.

12       “(iv) There is authorized to be transferred from the  
13 Federal Old-Age and Survivors Insurance Trust Fund and  
14 the Federal Disability Insurance Trust Fund, as appro-  
15 priate, such sums as may be necessary to enable the Com-  
16 missioner to make payments to institutions required by  
17 clause (i)(II).

18       “(v) The Commissioner is authorized to provide, on  
19 a reimbursable basis, information obtained pursuant to  
20 agreements entered into under clause (i) to any agency  
21 administering a Federal or federally assisted cash, food,  
22 or medical assistance program for eligibility purposes.”.

23       (2) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to individuals whose  
25 period of confinement in an institution commences

1 on or after the first day of the fourth month begin-  
2 ning after the month in which this Act is enacted.

3 (b) ELIMINATION OF TITLE II REQUIREMENT THAT  
4 CONFINEMENT STEM FROM CRIME PUNISHABLE BY IM-  
5 PRISONMENT FOR MORE THAN 1 YEAR.—

6 (1) IN GENERAL.—Section 202(x)(1)(A) of the  
7 Social Security Act (42 U.S.C. 402(x)(1)(A)) is  
8 amended—

9 (A) in the matter preceding clause (i), by  
10 striking “during” and inserting “throughout”;

11 (B) in clause (i), by striking “an offense  
12 punishable by imprisonment for more than 1  
13 year (regardless of the actual sentence im-  
14 posed)” and inserting “a criminal offense”; and

15 (C) in clause (ii)(I), by striking “an of-  
16 fense punishable by imprisonment for more  
17 than 1 year” and inserting “a criminal of-  
18 fense”.

19 (2) EFFECTIVE DATE.—The amendments made  
20 by this subsection shall apply to individuals whose  
21 period of confinement in an institution commences  
22 on or after the first day of the fourth month begin-  
23 ning after the month in which this Act is enacted.

24 (c) CONFORMING TITLE XVI AMENDMENTS.—

1           (1) FIFTY PERCENT REDUCTION IN TITLE XVI  
2 PAYMENT IN CASE INVOLVING COMPARABLE TITLE II  
3 PAYMENT.—Section 1611(e)(1)(I) of the Social Se-  
4 curity Act (42 U.S.C. 1382(e)(1)(I)) is amended—

5           (A) in clause (i)(II), by inserting “(subject  
6 to reduction under clause (ii))” after “\$400”  
7 and after “\$200”;

8           (B) by redesignating clauses (ii) and (iii)  
9 as clauses (iii) and (iv), respectively; and

10           (C) by inserting after clause (i) the follow-  
11 ing:

12           “(ii) The dollar amounts specified in clause (i)(II)  
13 shall be reduced by 50 percent if the Commissioner is also  
14 required to make a payment to the institution with respect  
15 to the same individual under an agreement entered into  
16 under section 202(x)(3)(B).”.

17           (2) EXPANSION OF CATEGORIES OF INSTITU-  
18 TIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH  
19 THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of  
20 the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i))  
21 is amended in the matter preceding subclause (I) by  
22 striking “institution” and all that follows through  
23 “section 202(x)(1)(A),” and inserting “institution  
24 comprising a jail, prison, penal institution, or correc-  
25 tional facility, or with any other interested State or



1 local institution a purpose of which is to confine in-  
2 dividuals as described in section 202(x)(1)(A)(ii),”.

3 (3) EFFECTIVE DATE.—The amendments made  
4 by this subsection shall take effect as if included in  
5 the enactment of section 203(a) of the Personal Re-  
6 sponsibility and Work Opportunity Reconciliation  
7 Act of 1996 (Public Law 104–193; 110 Stat. 2186).  
8 The reference to section 202(x)(1)(A)(ii) of the So-  
9 cial Security Act in section 1611(e)(1)(I)(i) of the  
10 Social Security Act as amended by paragraph (2)  
11 shall be deemed a reference to such section  
12 202(x)(1)(A)(ii) as amended by subsection (b)(1)(C).

13 (d) CONTINUED DENIAL OF BENEFITS TO SEX OF-  
14 FENDERS REMAINING CONFINED TO PUBLIC INSTITU-  
15 TIONS UPON COMPLETION OF PRISON TERM.—

16 (1) IN GENERAL.—Section 202(x)(1)(A) of the  
17 Social Security Act (42 U.S.C. 402(x)(1)(A)) is  
18 amended—

19 (A) in clause (i), by striking “or” at the  
20 end;

21 (B) in clause (ii)(IV), by striking the pe-  
22 riod and inserting “, or”; and

23 (C) by adding at the end the following:

24 “(iii) immediately upon completion of confine-  
25 ment as described in clause (i) pursuant to convic-

1 tion of a criminal offense an element of which is sex-  
2 ual activity, is confined by court order in an institu-  
3 tion at public expense pursuant to a finding that the  
4 individual is a sexually dangerous person or a sexual  
5 predator or a similar finding.”.

6 (2) CONFORMING AMENDMENT.—Section  
7 202(x)(1)(B)(ii) of the Social Security Act (42  
8 U.S.C. 402(x)(1)(B)(ii)) is amended by striking  
9 “clause (ii)” and inserting “clauses (ii) and (iii)”.

10 (3) EFFECTIVE DATE.—The amendments made  
11 by this subsection shall apply with respect to bene-  
12 fits for months ending after the date of enactment  
13 of this Act.

14 **SEC 303. REVOCATION BY MEMBERS OF THE CLERGY OF**  
15 **EXEMPTION FROM SOCIAL SECURITY COV-**  
16 **ERAGE.**

17 (a) IN GENERAL.—Notwithstanding section  
18 1402(e)(4) of the Internal Revenue Code of 1986, any ex-  
19 emption which has been received under section 1402(e)(1)  
20 of such Code by a duly ordained, commissioned, or li-  
21 censed minister of a church, a member of a religious order,  
22 or a Christian Science practitioner, and which is effective  
23 for the taxable year in which this Act is enacted, may be  
24 revoked by filing an application therefore (in such form  
25 and manner, and with such official, as may be prescribed

1 in regulations made under chapter 2 of such Code), if such  
2 application is filed no later than the due date of the Fed-  
3 eral income tax return (including any extension thereof)  
4 for the applicant's second taxable year beginning after De-  
5 cember 31, 1999. Any such revocation shall be effective  
6 (for purposes of chapter 2 of the Internal Revenue Code  
7 of 1986 and title II of the Social Security Act), as speci-  
8 fied in the application, either with respect to the appli-  
9 cant's first taxable year beginning after December 31,  
10 1999, or with respect to the applicant's second taxable  
11 year beginning after such date, and for all succeeding tax-  
12 able years; and the applicant for any such revocation may  
13 not thereafter again file application for an exemption  
14 under such section 1402(e)(1). If the application is filed  
15 after the due date of the applicant's Federal income tax  
16 return for a taxable year and is effective with respect to  
17 that taxable year, it shall include or be accompanied by  
18 payment in full of an amount equal to the total of the  
19 taxes that would have been imposed by section 1401 of  
20 the Internal Revenue Code of 1986 with respect to all of  
21 the applicant's income derived in that taxable year which  
22 would have constituted net earnings from self-employment  
23 for purposes of chapter 2 of such Code (notwithstanding  
24 paragraph (4) or (5) of section 1402(c) of such Code) ex-

1 cept for the exemption under section 1402(e)(1) of such  
2 Code.

3 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
4 with respect to service performed (to the extent specified  
5 in such subsection) in taxable years beginning after De-  
6 cember 31, 1999, and with respect to monthly insurance  
7 benefits payable under title II of the Social Security Act  
8 on the basis of the wages and self-employment income of  
9 any individual for months in or after the calendar year  
10 in which such individual's application for revocation (as  
11 described in such subsection) is effective (and lump-sum  
12 death payments payable under such title on the basis of  
13 such wages and self-employment income in the case of  
14 deaths occurring in or after such calendar year).

15 **SEC. 304. ADDITIONAL TECHNICAL AMENDMENT RELATING**  
16 **TO COOPERATIVE RESEARCH OR DEM-**  
17 **ONSTRATION PROJECTS UNDER TITLES II**  
18 **AND XVI.**

19 (a) IN GENERAL.—Section 1110(a)(3) of the Social  
20 Security Act (42 U.S.C. 1310(a)(3)) is amended by strik-  
21 ing “title XVI” and inserting “title II or XVI”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect as if included in the enact-  
24 ment of the Social Security Independence and Program

1 Improvements Act of 1994 (Public Law 103-296; 108  
2 Stat. 1464).

3 **SEC. 305. AUTHORIZATION FOR STATE TO PERMIT ANNUAL**  
4 **WAGE REPORTS.**

5 (a) **IN GENERAL.**—Section 1137(a)(3) of the Social  
6 Security Act (42 U.S.C. 1320b-7(a)(3)) is amended by  
7 inserting before the semicolon the following: “, and except  
8 that in the case of wage reports with respect to domestic  
9 service employment, a State may permit employers (as so  
10 defined) that make returns with respect to such employ-  
11 ment on a calendar year basis pursuant to section 3510  
12 of the Internal Revenue Code of 1986 to make such re-  
13 ports on an annual basis”.

14 (b) **TECHNICAL AMENDMENTS.**—Section 1137(a)(3)  
15 of the Social Security Act (42 U.S.C. 1320b-7(a)(3)) is  
16 amended—

17 (1) by striking “(as defined in section  
18 453A(a)(2)(B)(iii))”; and

19 (2) by inserting “(as defined in section  
20 453A(a)(2)(B))” after “employers” .

21 (c) **EFFECTIVE DATE.**—The amendments made by  
22 this section shall apply to wage reports required to be sub-  
23 mitted on and after the date of enactment of this Act.

○



106TH CONGRESS  
1ST SESSION

# S. 86

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. BUNNING introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to Social Security.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Ticket to Work and Self-Sufficiency Act of 1999”.

1 (b) TABLE OF CONTENTS.—The table of contents is  
2 as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. The Ticket to Work and Self-Sufficiency Program.
- Sec. 3. Extending Medicare coverage for OASDI disability benefit recipients who are using tickets to work and self-sufficiency.
- Sec. 4. Technical amendments relating to drug addicts and alcoholics.
- Sec. 5. Extension of disability insurance program demonstration project authority.
- Sec. 6. Treatment of prisoners.
- Sec. 7. Revocation by members of the clergy of exemption from Social Security coverage.
- Sec. 8. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.

3 **SEC. 2. THE TICKET TO WORK AND SELF-SUFFICIENCY**  
4 **PROGRAM.**

5 (a) IN GENERAL.—Part A of title XI of the Social  
6 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
7 ing at the end the following new section:

8 “THE TICKET TO WORK AND SELF-SUFFICIENCY  
9 PROGRAM

10 “SEC. 1147. (a) IN GENERAL.—The Commissioner  
11 of Social Security shall establish a Ticket to Work and  
12 Self-Sufficiency Program, under which a disabled bene-  
13 ficiary may use a ticket to work and self-sufficiency issued  
14 by the Commissioner in accordance with this section to  
15 obtain employment services, vocational rehabilitation serv-  
16 ices, or other support services from an employment net-  
17 work which is of the beneficiary’s choice and which is will-  
18 ing to provide such services to such beneficiary.

19 “(b) TICKET SYSTEM.—



1           “(1) DISTRIBUTION OF TICKETS.—The Com-  
2           missioner of Social Security may issue a ticket to  
3           work and self-sufficiency to disabled beneficiaries for  
4           participation in the Program.

5           “(2) ASSIGNMENT OF TICKETS.—A disabled  
6           beneficiary holding a ticket to work and self-suffi-  
7           ciency may assign the ticket to any employment net-  
8           work of the beneficiary’s choice which is serving  
9           under the Program and is willing to accept the as-  
10          signment.

11          “(3) TICKET TERMS.—A ticket issued under  
12          paragraph (1) shall consist of a document which evi-  
13          dences the Commissioner’s agreement to pay, (as  
14          provided in paragraph (4)) an employment network,  
15          which is serving under the Program and to which  
16          such ticket is assigned by the beneficiary, for such  
17          employment services, vocational rehabilitation serv-  
18          ices, and other support services as the employment  
19          network may provide to the beneficiary.

20          “(4) PAYMENTS TO EMPLOYMENT NET-  
21          WORKS.—The Commissioner shall pay an employ-  
22          ment network under the Program in accordance with  
23          the outcome payment system under subsection  
24          (h)(2) or under the outcome-milestone payment sys-  
25          tem under subsection (h)(3) (whichever is elected

1 pursuant to subsection (h)(1)). An employment net-  
2 work may not request or receive compensation for  
3 such services from the beneficiary.

4 “(c) STATE PARTICIPATION.—

5 “(1) PERIODIC ELECTIONS.—Each State agen-  
6 cy administering or supervising the administration  
7 of the State plan approved under title I of the Reha-  
8 bilitation Act of 1973 may elect to participate in the  
9 Program (or to revoke any such election) as an em-  
10 ployment network. The Commissioner shall provide  
11 for periodic opportunities for exercising such elec-  
12 tions (and revocations).

13 “(2) TREATMENT OF STATE AGENCIES.—Any  
14 such election (or revocation) by a State agency de-  
15 scribed in paragraph (1) taking effect during any  
16 period for which an individual residing in the State  
17 is a disabled beneficiary and a client of the State  
18 agency shall not be effective with respect to such in-  
19 dividual to the extent that such election (or revoca-  
20 tion) would result in any change in the method of  
21 payment to the State agency with respect to the in-  
22 dividual from the method of payment to the State  
23 agency with respect to the individual in effect imme-  
24 diately before such election (or revocation).

1           “(3) EFFECT OF PARTICIPATION BY STATE  
2 AGENCY.—

3           “(A) STATE AGENCIES PARTICIPATING.—

4           In any case in which a State agency described  
5 in paragraph (1) elects under paragraph (1) to  
6 participate in the Program—

7                   “(i) the employment services, voca-  
8                   tional rehabilitation services, and other  
9                   support services which, upon assignment of  
10                   tickets to work and self-sufficiency, are  
11                   provided to disabled beneficiaries by the  
12                   State agency acting as an employment net-  
13                   work shall be governed by plans for voca-  
14                   tional rehabilitation services approved  
15                   under title I of the Rehabilitation Act of  
16                   1973; and

17                   “(ii) the provisions of section 222(d)  
18                   and the provisions of subsections (d) and  
19                   (e) of section 1615 shall not apply with re-  
20                   spect to such State.

21           “(B) STATE AGENCIES ADMINISTERING  
22 MATERNAL AND CHILD HEALTH SERVICES PRO-  
23 GRAMS.—Subparagraph (A) shall not apply  
24 with respect to any State agency administering  
25 a program under title V of this Act.

1           “(4) SPECIAL REQUIREMENTS APPLICABLE TO  
2 CROSS-REFERRAL TO CERTAIN STATE AGENCIES.—

3           “(A) IN GENERAL.—In any case in which  
4 an employment network has been assigned a  
5 ticket to work and self-sufficiency by a disabled  
6 beneficiary, no State agency shall be deemed re-  
7 quired, under this section, title I of the Reha-  
8 bilitation Act of 1973, or a State plan approved  
9 under such title, to accept any referral of such  
10 disabled beneficiary from such employment net-  
11 work unless such employment network and such  
12 State agency have entered into a written agree-  
13 ment that meets the requirements of subpara-  
14 graph (B).

15           “(B) TERMS OF AGREEMENT.—An agree-  
16 ment required by subparagraph (A) shall speci-  
17 fy, in accordance with regulations prescribed  
18 pursuant to subparagraph (C)—

19                   “(i) the extent (if any) to which the  
20 employment network holding the ticket will  
21 provide to the State agency—

22                           “(I) reimbursement for costs in-  
23 curred in providing services described  
24 in subparagraph (A) to the disabled  
25 beneficiary; and

1                   “(II) other amounts from pay-  
2                   ments made by the Commissioner to  
3                   the employment network pursuant to  
4                   subsection (h); and

5                   “(ii) any other conditions that may be  
6                   required by such regulations.

7                   “(C) REGULATIONS.—The Commissioner  
8                   of Social Security and the Secretary of Edu-  
9                   cation shall jointly prescribe regulations specify-  
10                  ing the terms of agreements required by sub-  
11                  paragraph (A) and otherwise necessary to carry  
12                  out the provisions of this paragraph.

13                  “(D) PENALTY.—No payment may be  
14                  made to an employment network pursuant to  
15                  subsection (h) in connection with services pro-  
16                  vided to any disabled beneficiary if such em-  
17                  ployment network makes referrals described in  
18                  subparagraph (A) in violation of the terms of  
19                  the contract required under subparagraph (A)  
20                  or without having entered into such a contract.

21                  “(d) RESPONSIBILITIES OF THE COMMISSIONER OF  
22                  SOCIAL SECURITY.—

23                  “(1) SELECTION AND QUALIFICATIONS OF PRO-  
24                  GRAM MANAGERS.—The Commissioner of Social Se-  
25                  curity shall enter into agreements with 1 or more or-

1 organizations in the private or public sector for service  
 2 as a program manager to assist the Commissioner in  
 3 administering the Program. Any such program man-  
 4 ager shall be selected by means of a competitive bid-  
 5 ding process, from among organizations in the pri-  
 6 vate or public sector with available expertise and ex-  
 7 perience in the field of vocational rehabilitation or  
 8 employment services.

9 “(2) TENURE, RENEWAL, AND EARLY TERMI-  
 10 NATION.—Each agreement entered into under para-  
 11 graph (1) shall provide for early termination upon  
 12 failure to meet performance standards which shall be  
 13 specified in the agreement and which shall be  
 14 weighted to take into account any performance in  
 15 prior terms. Such performance standards shall in-  
 16 clude (but are not limited to)—

17 “(A) measures for ease of access by bene-  
 18 ficiaries to services; and

19 “(B) measures for determining the extent  
 20 to which failures in obtaining services for bene-  
 21 ficiaries fall within acceptable parameters, as  
 22 determined by the Commissioner.

23 “(3) PRECLUSION FROM DIRECT PARTICIPA-  
 24 TION IN DELIVERY OF SERVICES IN OWN SERVICE

1 AREA.—Agreements under paragraph (1) shall  
2 preclude—

3 “(A) direct participation by a program  
4 manager in the delivery of employment services,  
5 vocational rehabilitation services, or other sup-  
6 port services to beneficiaries in the service area  
7 covered by the program manager’s agreement;  
8 and

9 “(B) the holding by a program manager of  
10 a financial interest in an employment network  
11 or service provider which provides services in a  
12 geographic area covered under the program  
13 manager’s agreement.

14 “(4) SELECTION OF EMPLOYMENT NET-  
15 WORKS.—The Commissioner shall select and enter  
16 into agreements with employment networks for serv-  
17 ice under the Program. Such employment networks  
18 shall be in addition to State agencies serving as em-  
19 ployment networks pursuant to elections under sub-  
20 section (c).

21 “(5) TERMINATION OF AGREEMENTS WITH EM-  
22 PLOYMENT NETWORKS.—The Commissioner shall  
23 terminate agreements with employment networks for  
24 inadequate performance, as determined by the Com-  
25 missioner.

1           “(6) QUALITY ASSURANCE.—The Commissioner  
2 shall provide for such periodic reviews as are nec-  
3 essary to provide for effective quality assurance in  
4 the provision of services by employment networks.  
5 The Commissioner shall take into account the views  
6 of consumers and the program manager under which  
7 the employment networks serve and shall consult  
8 with providers of services to develop performance  
9 measurements. The Commissioner shall ensure that  
10 the results of the periodic reviews are made available  
11 to beneficiaries who are prospective service recipients  
12 as they select employment networks. The Commis-  
13 sioner shall ensure the performance of periodic sur-  
14 veys of beneficiaries receiving services under the  
15 Program designed to measure customer service satis-  
16 faction.

17           “(7) DISPUTE RESOLUTION.—The Commis-  
18 sioner shall provide for a mechanism for resolving  
19 disputes between beneficiaries and employment net-  
20 works and between program managers and employ-  
21 ment networks. The Commissioner shall afford a  
22 party to such a dispute a reasonable opportunity for  
23 a full and fair review of the matter in dispute.

24           “(e) PROGRAM MANAGERS.—



1           “(1) IN GENERAL.—A program manager shall  
2           conduct tasks appropriate to assist the Commis-  
3           sioner in carrying out the Commissioner’s duties in  
4           administering the Program.

5           “(2) RECRUITMENT OF EMPLOYMENT NET-  
6           WORKS.—A program manager shall recruit, and rec-  
7           ommend for selection by the Commissioner, employ-  
8           ment networks for service under the Program. The  
9           program manager shall carry out such recruitment  
10          and provide such recommendations, and shall mon-  
11          itor all employment networks serving in the Program  
12          in the geographic area covered under the program  
13          manager’s agreement, to the extent necessary and  
14          appropriate to ensure that adequate choices of serv-  
15          ices are made available to beneficiaries. Employment  
16          networks may serve under the Program only pursu-  
17          ant to an agreement entered into with the Commis-  
18          sioner under the Program incorporating the applica-  
19          ble provisions of this section and regulations there-  
20          under, and the program manager shall provide and  
21          maintain assurances to the Commissioner that pay-  
22          ment by the Commissioner to employment networks  
23          pursuant to this section is warranted based on com-  
24          pliance by such employment networks with the terms  
25          of such agreement and this section. The program

1 manager shall not impose numerical limits on the  
2 number of employment networks to be recommended  
3 pursuant to this paragraph.

4 “(3) FACILITATION OF ACCESS BY BENE-  
5 FICIARIES TO EMPLOYMENT NETWORKS.—A pro-  
6 gram manager shall facilitate access by beneficiaries  
7 to employment networks. The program manager  
8 shall ensure that each beneficiary is allowed changes  
9 in employment networks for good cause, as deter-  
10 mined by the Commissioner, without being deemed  
11 to have rejected services under the Program. The  
12 program manager shall establish and maintain lists  
13 of employment networks available to beneficiaries  
14 and shall make such lists generally available to the  
15 public. The program manager shall ensure that all  
16 information provided to disabled beneficiaries pursu-  
17 ant to this paragraph is provided in accessible for-  
18 mat.

19 “(4) ENSURING AVAILABILITY OF ADEQUATE  
20 SERVICES.—The program manager shall ensure that  
21 employment services, vocational rehabilitation serv-  
22 ices, and other support services are provided to  
23 beneficiaries throughout the geographic area covered  
24 under the program manager’s agreement, including  
25 rural areas.

1           “(5) REASONABLE ACCESS TO SERVICES.—The  
2           program manager shall take such measures as are  
3           necessary to ensure that sufficient employment net-  
4           works are available and that each beneficiary receiv-  
5           ing services under the Program has reasonable ac-  
6           cess to employment services, vocational rehabilitation  
7           services, and other support services. Such services  
8           may include case management, benefits counseling,  
9           supported employment, career planning, career plan  
10          development, vocational assessment, job training,  
11          placement, follow-up services, and such other serv-  
12          ices as may be specified by the Commissioner under  
13          the Program. The program manager shall ensure  
14          that such services are coordinated.

15          “(f) EMPLOYMENT NETWORKS.—

16                 “(1) QUALIFICATIONS FOR EMPLOYMENT NET-  
17                 WORKS.—Each employment network serving under  
18                 the Program shall consist of an agency or instru-  
19                 mentality of a State (or a political subdivision there-  
20                 of) or a private entity, which assumes responsibility  
21                 for the coordination and delivery of services under  
22                 the Program to individuals assigning to the employ-  
23                 ment network tickets to work and self-sufficiency  
24                 issued under subsection (b). No employment network  
25                 may serve under the Program unless it demonstrates

1 to the Commissioner substantial expertise and expe-  
2 rience in the field of employment services, vocational  
3 rehabilitation services, or other support services for  
4 individuals with disabilities and provides an array of  
5 such services. An employment network shall consist  
6 of either a single provider of such services or of an  
7 association of such providers organized so as to com-  
8 bine their resources into a single entity. An employ-  
9 ment network may meet the requirements of sub-  
10 section (e)(4) by providing services directly, or by  
11 entering into agreements with other individuals or  
12 entities providing appropriate employment services,  
13 vocational rehabilitation services, or other support  
14 services.

15 “(2) REQUIREMENTS RELATING TO PROVISION  
16 OF SERVICES.—Each employment network serving  
17 under the Program shall be required under the  
18 terms of its agreement with the Commissioner to—

19 “(A) serve prescribed service areas;

20 “(B) meet, and maintain compliance with,  
21 both general selection criteria (such as profes-  
22 sional and governmental certification and edu-  
23 cational credentials) and specific selection cri-  
24 teria (such as the extent of work experience by  
25 the provider with specific populations); and

1           “(C) take such measures as are necessary  
2           to ensure that employment services, vocational  
3           rehabilitation services, and other support serv-  
4           ices provided under the Program by, or under  
5           agreements entered into with, the employment  
6           network are provided under appropriate individ-  
7           ual work plans meeting the requirements of  
8           subsection (g).

9           “(3) ANNUAL FINANCIAL REPORTING.—Each  
10          employment network shall meet financial reporting  
11          requirements as prescribed by the Commissioner.

12          “(4) PERIODIC OUTCOMES REPORTING.—Each  
13          employment network shall prepare periodic reports,  
14          on at least an annual basis, itemizing for the covered  
15          period specific outcomes achieved with respect to  
16          specific services provided by the employment net-  
17          work. Such reports shall conform to a national  
18          model prescribed under this section. Each employ-  
19          ment network shall provide a copy of the latest re-  
20          port issued by the employment network pursuant to  
21          this paragraph to each beneficiary upon enrollment  
22          under the Program for services to be received  
23          through such employment network. Upon issuance of  
24          each report to each beneficiary, a copy of the report  
25          shall be maintained in the files of the employment

1 network pertaining to the beneficiary. The program  
2 manager shall ensure that copies of all such reports  
3 issued under this paragraph are made available to  
4 the public under reasonable terms.

5 “(g) INDIVIDUAL WORK PLANS.—

6 “(1) IN GENERAL.—Each employment network  
7 shall—

8 “(A) take such measures as are necessary  
9 to ensure that employment services, vocational  
10 rehabilitation services, and other support serv-  
11 ices provided under the Program by, or under  
12 agreements entered into with, the employment  
13 network are provided under appropriate individ-  
14 ual work plans as defined by the Commissioner;  
15 and

16 “(B) develop and implement each such in-  
17 dividual work plan, in the case of each bene-  
18 ficiary receiving such services, in a manner that  
19 affords such beneficiary the opportunity to ex-  
20 ercise informed choice in selecting an employ-  
21 ment goal and specific services needed to  
22 achieve that employment goal.

23 A beneficiary’s individual work plan shall take effect  
24 upon approval by the beneficiary.

1           “(2) VOCATIONAL EVALUATION.—In devising  
2           the work plan, the employment network shall under-  
3           take a vocational evaluation with respect to the ben-  
4           eficiary. Each vocational evaluation shall set forth in  
5           writing such elements and shall be in such format as  
6           the Commissioner shall prescribe. The Commissioner  
7           may provide for waiver by the beneficiary of such a  
8           vocational evaluation, subject to regulations which  
9           shall be prescribed by the Commissioner providing  
10          for the permissible timing of, and the circumstances  
11          permitting, such a waiver.

12          “(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

13                 “(1) ELECTION OF PAYMENT SYSTEM BY EM-  
14                 PLOYMENT NETWORKS.—

15                         “(A) IN GENERAL.—The Program shall  
16                         provide for payment authorized by the Commis-  
17                         sioner to employment networks under either an  
18                         outcome payment system or an outcome-mile-  
19                         stone payment system. Each employment net-  
20                         work shall elect which payment system will be  
21                         utilized by the employment network, and, for  
22                         such period of time as such election remains in  
23                         effect, the payment system so elected shall be  
24                         utilized exclusively in connection with such em-

1           employment network (except as provided in sub-  
2           paragraph (B)).

3           “(B) METHOD OF PAYMENT TO EMPLOY-  
4           MENT NETWORKS.—Any such election by an  
5           employment network taking effect during any  
6           period for which a disabled beneficiary is receiv-  
7           ing services from such employment network  
8           shall not be effective with respect to such bene-  
9           ficiary to the extent that such election would re-  
10          sult in any change in the method of payment to  
11          the employment network with respect to serv-  
12          ices provided to such beneficiary from the meth-  
13          od of payment to the employment network with  
14          respect to services provided to such beneficiary  
15          as of immediately before such election.

16          “(2) OUTCOME PAYMENT SYSTEM.—

17                 “(A) IN GENERAL.—The outcome payment  
18                 system shall consist of a payment structure gov-  
19                 erning employment networks electing such sys-  
20                 tem under paragraph (1)(A) which meets the  
21                 requirements of this paragraph.

22                 “(B) PAYMENTS MADE DURING OUTCOME  
23                 PAYMENT PERIOD.—The outcome payment sys-  
24                 tem shall provide for a schedule of payments to  
25                 an employment network, in connection with



1 each individual who is a beneficiary, for each  
2 month, during the individual's outcome pay-  
3 ment period, for which benefits (described in  
4 paragraphs (2) and (3) of subsection (k)) are  
5 not payable to such individual.

6 “(C) COMPUTATION OF PAYMENTS TO EM-  
7 PLOYMENT NETWORK.—The payment schedule  
8 of the outcome payment system shall be de-  
9 signed so that—

10 “(i) the payment for each of the 60  
11 months during the outcome payment pe-  
12 riod for which benefits (described in para-  
13 graphs (2) and (3) of subsection (k)) are  
14 not payable is equal to a fixed percentage  
15 of the payment calculation base for the cal-  
16 endar year in which such month occurs;  
17 and

18 “(ii) such fixed percentage is set at a  
19 percentage which does not exceed 40 per-  
20 cent.

21 “(3) OUTCOME-MILESTONE PAYMENT SYS-  
22 TEM.—

23 “(A) IN GENERAL.—The outcome-mile-  
24 stone payment system shall consist of a pay-  
25 ment structure governing employment networks

1 electing such system under paragraph (1)(A)  
2 which meets the requirements of this para-  
3 graph.

4 “(B) EARLY PAYMENTS UPON ATTAIN-  
5 MENT OF MILESTONES IN ADVANCE OF OUT-  
6 COME PAYMENT PERIODS.—The outcome-mile-  
7 stone payment system shall provide for 1 or  
8 more milestones, with respect to beneficiaries  
9 receiving services from an employment network  
10 under the Program, which are directed toward  
11 the goal of permanent employment. Such mile-  
12 stones shall form a part of a payment structure  
13 which provides, in addition to payments made  
14 during outcome payment periods, payments  
15 made prior to outcome payment periods in  
16 amounts based on the attainment of such mile-  
17 stones.

18 “(C) LIMITATION ON TOTAL PAYMENTS TO  
19 EMPLOYMENT NETWORK.—The payment sched-  
20 ule of the outcome milestone payment system  
21 shall be designed so that the total of the pay-  
22 ments to the employment network with respect  
23 to each beneficiary is less than, on a net  
24 present value basis (using an interest rate de-  
25 termined by the Commissioner that appro-

1           priately reflects the cost of funds faced by pro-  
2           viders), the total amount to which payments to  
3           the employment network with respect to the  
4           beneficiary would be limited if the employment  
5           network were paid under the outcome payment  
6           system.

7           “(4) DEFINITIONS.—For purposes of this  
8           subsection—

9                   “(A) PAYMENT CALCULATION BASE.—The  
10           term ‘payment calculation base’ means, for any  
11           calendar year—

12                           “(i) in connection with a title II dis-  
13                           ability beneficiary, the average disability  
14                           insurance benefit payable under section  
15                           223 for all beneficiaries for months during  
16                           the preceding calendar year; and

17                           “(ii) in connection with a title XVI  
18                           disability beneficiary (who is not concur-  
19                           rently a title II disability beneficiary), the  
20                           average payment of supplemental security  
21                           income benefits based on disability payable  
22                           under title XVI (excluding State sup-  
23                           plementation) for months during the pre-  
24                           ceding calendar year to all beneficiaries  
25                           who have attained at least 18 years of age.

1           “(B) OUTCOME PAYMENT PERIOD.—The  
2 term ‘outcome payment period’ means, in con-  
3 nection with any individual who had assigned a  
4 ticket to work and self-sufficiency to an employ-  
5 ment network under the Program, a period—

6           “(i) beginning with the first month,  
7 ending after the date on which such ticket  
8 was assigned to the employment network,  
9 for which benefits (described in paragraphs  
10 (2) and (3) of subsection (k)) are not pay-  
11 able to such individual by reason of en-  
12 gagement in work activity; and

13           “(ii) ending with the 60th month  
14 (consecutive or otherwise), ending after  
15 such date, for which such benefits are not  
16 payable to such individual by reason of en-  
17 gagement in work activity.

18           “(5) PERIODIC REVIEW AND ALTERATIONS OF  
19 PRESCRIBED SCHEDULES.—

20           “(A) PERCENTAGES AND PERIODS.—The  
21 Commissioner of Social Security shall periodi-  
22 cally review the percentage specified in para-  
23 graph (2)(C), the total payments permissible  
24 under paragraph (3)(C), and the period of time  
25 specified in paragraph (4)(B) to determine

1           whether such percentages, such permissible pay-  
2           ments, and such period provide an adequate in-  
3           centive for employment networks to assist bene-  
4           ficiaries to enter the workforce, while providing  
5           for appropriate economies. The Commissioner  
6           may alter such percentage, such total permis-  
7           sible payments, or such period of time to the  
8           extent that the Commissioner determines, on  
9           the basis of the Commissioner's review under  
10          this paragraph, that such an alteration would  
11          better provide the incentive and economies de-  
12          scribed in the preceding sentence.

13                   “(B) NUMBER AND AMOUNT OF MILE-  
14          STONE PAYMENTS.—The Commissioner shall  
15          periodically review the number and amounts of  
16          milestone payments established by the Commis-  
17          sioner pursuant to this section to determine  
18          whether they provide an adequate incentive for  
19          employment networks to assist beneficiaries to  
20          enter the workforce, taking into account infor-  
21          mation provided to the Commissioner by pro-  
22          gram managers, the Ticket to Work and Self-  
23          Sufficiency Advisory Panel, and other reliable  
24          sources. The Commissioner may from time to  
25          time alter the number and amounts of mile-

1           stone payments initially established by the  
2           Commissioner pursuant to this section to the  
3           extent that the Commissioner determines that  
4           such an alteration would allow an adequate in-  
5           centive for employment networks to assist bene-  
6           ficiaries to enter the workforce. Such alteration  
7           shall be based on information provided to the  
8           Commissioner by program managers, the Ticket  
9           to Work and Self-Sufficiency Advisory Panel, or  
10          other reliable sources.

11          “(i) SUSPENSION OF DISABILITY REVIEWS.—During  
12 any period for which an individual is using a ticket to work  
13 and self-sufficiency issued under this section, the Commis-  
14 sioner (and any applicable State agency) may not initiate  
15 a continuing disability review or other review under section  
16 221 of whether the individual is or is not under a disability  
17 or a review under title XVI similar to any such review  
18 under section 221.

19          “(j) AUTHORIZATIONS.—

20                 “(1) TITLE II DISABILITY BENEFICIARIES.—  
21           There are authorized to be transferred from the  
22           Federal Old-Age and Survivors Insurance Trust  
23           Fund and the Federal Disability Insurance Trust  
24           Fund each fiscal year such sums as may be nec-  
25           essary to carry out the provisions of this section

1 with respect to title II disability beneficiaries. Money  
2 paid from the Trust Funds under this section with  
3 respect to title II disability beneficiaries who are en-  
4 titled to benefits under section 223 or who are enti-  
5 tled to benefits under section 202(d) on the basis of  
6 the wages and self-employment income of such bene-  
7 ficiaries, shall be charged to the Federal Disability  
8 Insurance Trust Fund, and all other money paid  
9 from the Trust Funds under this section shall be  
10 charged to the Federal Old-Age and Survivors Insur-  
11 ance Trust Fund. The Commissioner of Social Secu-  
12 rity shall determine according to such methods and  
13 procedures as shall be prescribed under this  
14 section—

15 “(A) the total amount to be paid to pro-  
16 gram managers and employment networks  
17 under this section; and

18 “(B) subject to the provisions of the pre-  
19 ceding sentence, the amount which should be  
20 charged to each of the Trust Funds.

21 “(2) TITLE XVI DISABILITY BENEFICIARIES.—

22 Amounts authorized to be appropriated to the Social  
23 Security Administration under section 1601 (as in  
24 effect pursuant to the amendments made by section  
25 301 of the Social Security Amendments of 1972)

1 shall include amounts necessary to carry out the  
2 provisions of this section with respect to title XVI  
3 disability beneficiaries.

4 “(k) DEFINITIONS.—For purposes of this section—

5 “(1) DISABLED BENEFICIARY.—The term ‘dis-  
6 abled beneficiary’ means a title II disability bene-  
7 ficiary or a title XVI disability beneficiary.

8 “(2) TITLE II DISABILITY BENEFICIARY.—The  
9 term ‘title II disability beneficiary’ means an individ-  
10 ual entitled to disability insurance benefits under  
11 section 223 or to monthly insurance benefits under  
12 section 202 based on such individual’s disability (as  
13 defined in section 223(d)). An individual is a title II  
14 disability beneficiary for each month for which such  
15 individual is entitled to such benefits.

16 “(3) TITLE XVI DISABILITY BENEFICIARY.—  
17 The term ‘title XVI disability beneficiary’ means an  
18 individual eligible for supplemental security income  
19 benefits under title XVI on the basis of blindness  
20 (within the meaning of section 1614(a)(2)) or dis-  
21 ability (within the meaning of section 1614(a)(3)).  
22 An individual is a title XVI disability beneficiary for  
23 each month for which such individual is eligible for  
24 such benefits.



1           “(4) SUPPLEMENTAL SECURITY INCOME BENE-  
2           FIT.—The term ‘supplemental security income bene-  
3           fit under title XVI’ means a cash benefit under sec-  
4           tion 1611 or 1619(a), and does not include a State  
5           supplementary payment, administered federally or  
6           otherwise.

7           “(1) REGULATIONS.—The Commissioner of Social Se-  
8           curity shall prescribe such regulations as are necessary to  
9           carry out the provisions of this section.”.

10          (b) CONFORMING AMENDMENTS.—

11           (1) AMENDMENTS TO TITLE II.—

12           (A) Section 221(c) of such Act (42 U.S.C.  
13           421(c)) is amended by adding at the end the  
14           following new paragraph:

15           “(4) For suspension of reviews under this subsection  
16           in the case of an individual using a ticket to work and  
17           self-sufficiency, see section 1147(i).”.

18           (B) Section 222(a) of such Act (42 U.S.C.  
19           422(a)) is repealed.

20           (C) Section 222(b) of such Act (42 U.S.C.  
21           422(b)) is repealed.

22           (D) Section 225(b)(1) of such Act (42  
23           U.S.C. 425(b)(1)) is amended by striking “a  
24           program of vocational rehabilitation services”  
25           and inserting “a program consisting of the

1 Ticket to Work and Self-Sufficiency Program  
2 under section 1147 or another program of voca-  
3 tional rehabilitation services, employment serv-  
4 ices, or other support services”.

5 (2) AMENDMENTS TO TITLE XVI.—

6 (A) Section 1615(a) of such Act (42  
7 U.S.C. 1382d(a)) is amended to read as follows:

8 “SEC. 1615. (a) In the case of any blind or disabled  
9 individual who—

10 “(1) has not attained age 16; and

11 “(2) with respect to whom benefits are paid  
12 under this title,

13 the Commissioner of Social Security shall make provision  
14 for referral of such individual to the appropriate State  
15 agency administering the State program under title V.”.

16 (B) Section 1615(c) of such Act (42  
17 U.S.C. 1382d(c)) is repealed.

18 (C) Section 1631(a)(6)(A) of such Act (42  
19 U.S.C. 1383(a)(6)(A)) is amended by striking  
20 “a program of vocational rehabilitation serv-  
21 ices” and inserting “a program consisting of  
22 the Ticket to Work and Self-Sufficiency Pro-  
23 gram under section 1147 or another program of  
24 vocational rehabilitation services, employment  
25 services, or other support services”.

1 (D) Section 1633(c) of such Act (42  
2 U.S.C. 1383b(c)) is amended—

3 (i) by inserting “(1)” after “(c)”; and

4 (ii) by adding at the end the following  
5 new paragraph:

6 “(2) For suspension of continuing disability reviews  
7 and other reviews under this title similar to reviews under  
8 section 221 in the case of an individual using a ticket to  
9 work and self-sufficiency, see section 1147(i).”.

10 (c) EFFECTIVE DATE.—Subject to subsection (d),  
11 the amendments made by subsections (a) and (b) shall  
12 take effect with the first month following 1 year after the  
13 date of the enactment of this Act.

14 (d) GRADUATED IMPLEMENTATION OF PROGRAM.—

15 (1) IN GENERAL.—Not later than 1 year after  
16 the date of the enactment of this Act, the Commis-  
17 sioner of Social Security shall commence implemen-  
18 tation of the amendments made by this section  
19 (other than paragraphs (1)(C) and (2)(B) of sub-  
20 section (b)) in graduated phases at phase-in sites se-  
21 lected by the Commissioner. Such phase-in sites  
22 shall be selected so as to ensure, prior to full imple-  
23 mentation of the Ticket to Work and Self-Suffi-  
24 ciency Program, the development and refinement of  
25 referral processes, payment systems, computer link-

1       ages, management information systems, and admin-  
2       istrative processes necessary to provide for full im-  
3       plementation of such amendments. Subsection (c)  
4       shall apply with respect to paragraphs (1)(C) and  
5       (2)(B) of subsection (b) without regard to this sub-  
6       section.

7           (2) REQUIREMENTS.—Implementation of the  
8       Program at each phase-in site shall be carried out  
9       on a wide enough scale to permit a thorough evalua-  
10      tion of the alternative methods under consideration,  
11      so as to ensure that the most efficacious methods  
12      are determined and in place for full implementation  
13      of the Program on a timely basis.

14          (3) FULL IMPLEMENTATION.—The Commis-  
15      sioner shall ensure that the Program is fully imple-  
16      mented as soon as practicable on or after the effec-  
17      tive date specified in subsection (c) but not later  
18      than 6 years after such date.

19          (4) ONGOING EVALUATION OF PROGRAM.—

20           (A) IN GENERAL.—The Commissioner  
21      shall design and conduct a series of evaluations  
22      to assess the cost-effectiveness of activities car-  
23      ried out under this section and the amendments  
24      made thereby, as well as the effects of this sec-  
25      tion and the amendments made thereby on

1 work outcomes for beneficiaries receiving tickets  
2 to work and self-sufficiency under the Program.

3 (B) METHODOLOGY.—

4 (i) DESIGN AND IMPLEMENTATION.—

5 The Commissioner shall design the series  
6 of evaluations after receiving relevant ad-  
7 vice from experts in the fields of disability,  
8 vocational rehabilitation, and program  
9 evaluation and individuals using tickets to  
10 work and self-sufficiency under the Pro-  
11 gram. In designing and carrying out such  
12 evaluations, the Commissioner shall consult  
13 with the Comptroller General of the United  
14 States and other agencies of the Federal  
15 Government and with private organizations  
16 with appropriate expertise. Before provi-  
17 sion of services begins under any phase of  
18 Program implementation, the Commis-  
19 sioner shall ensure that plans for such  
20 evaluations and data collection methods  
21 are in place and ready for implementation.

22 (ii) SPECIFIC MATTERS TO BE AD-  
23 DRESSED.—Each such evaluation shall ad-  
24 dress (but is not limited to):

1 (I) the annual cost (including net  
2 cost) of the Program and the annual  
3 cost (including net cost) that would  
4 have been incurred in the absence of  
5 the Program;

6 (II) the determinants of return to  
7 work, including the characteristics of  
8 beneficiaries in receipt of tickets  
9 under the Program;

10 (III) the types of employment  
11 services, vocational rehabilitation serv-  
12 ices, and other support services fur-  
13 nished to beneficiaries in receipt of  
14 tickets under the Program who return  
15 to work and to those who do not re-  
16 turn to work;

17 (IV) the duration of employment  
18 services, vocational rehabilitation serv-  
19 ices, and other support services fur-  
20 nished to beneficiaries in receipt of  
21 tickets under the Program who return  
22 to work and the duration of such serv-  
23 ices furnished to those who do not re-  
24 turn to work and the cost to employ-

1                   ment networks of furnishing such  
2                   services;

3                   (V) the employment outcomes,  
4                   including wages, occupations, benefits,  
5                   and hours worked, of beneficiaries  
6                   who return to work after receiving  
7                   tickets under the Program and those  
8                   who return to work without receiving  
9                   such tickets;

10                  (VI) the characteristics of provid-  
11                  ers whose services are provided within  
12                  an employment network under the  
13                  Program;

14                  (VII) the extent (if any) to which  
15                  employment networks display a great-  
16                  er willingness to provide services to  
17                  disabled beneficiaries;

18                  (VIII) the characteristics (includ-  
19                  ing employment outcomes) of those  
20                  beneficiaries who receive services  
21                  under the outcome payment system  
22                  and of those beneficiaries who receive  
23                  services under the outcome-milestone  
24                  payment system;

1 (IX) measures of satisfaction  
2 among beneficiaries in receipt of tick-  
3 ets under the Program; and

4 (X) reasons for (including com-  
5 ments solicited from beneficiaries re-  
6 garding) their choice not to use their  
7 tickets or their inability to return to  
8 work despite the use of their tickets.

9 (C) PERIODIC EVALUATION REPORTS.—

10 Following the close of the third and fifth fiscal  
11 years ending after the effective date under sub-  
12 section (c), and prior to the close of the seventh  
13 fiscal year ending after such date, the Commis-  
14 sioner shall transmit to the Committee on Ways  
15 and Means of the House of Representatives and  
16 the Committee on Finance of the Senate a re-  
17 port containing the Commissioner's evaluation  
18 of the progress of activities conducted under the  
19 provisions of this section and the amendments  
20 made thereby. Each such report shall set forth  
21 the Commissioner's evaluation of the extent to  
22 which the Program has been successful and the  
23 Commissioner's conclusions on whether or how  
24 the Program should be modified. Each such re-  
25 port shall include such data, findings, materials,



1 and recommendations as the Commissioner may  
2 consider appropriate.

3 (5) EXTENT OF STATE'S RIGHT OF FIRST RE-  
4 FUSAL IN ADVANCE OF FULL IMPLEMENTATION OF  
5 AMENDMENTS IN SUCH STATE.—

6 (A) IN GENERAL.—In the case of any  
7 State in which the amendments made by sub-  
8 section (a) have not been fully implemented  
9 pursuant to this subsection, the Commissioner  
10 shall determine by regulation the extent to  
11 which—

12 (i) the requirement under section  
13 222(a) of the Social Security Act for  
14 prompt referrals to a State agency; and

15 (ii) the authority of the Commissioner  
16 under section 222(d)(2) of such Act to  
17 provide vocational rehabilitation services in  
18 such State by agreement or contract with  
19 other public or private agencies, organiza-  
20 tions, institutions, or individuals,  
21 shall apply in such State.

22 (B) EXISTING AGREEMENTS.—Nothing in  
23 subparagraph (A) or the amendments made by  
24 subsection (a) shall be construed to limit, im-  
25 pede, or otherwise affect any agreement entered

1 into pursuant to section 222(d)(2) of the Social  
2 Security Act before the date of the enactment  
3 of this Act with respect to services provided  
4 pursuant to such agreement to beneficiaries re-  
5 ceiving services under such agreement as of  
6 such date, except with respect to services (if  
7 any) to be provided after 6 years after the ef-  
8 fective date provided in subsection (c).

9 (e) THE TICKET TO WORK AND SELF-SUFFICIENCY  
10 ADVISORY PANEL.—

11 (1) ESTABLISHMENT.—There is established in  
12 the executive branch a panel to be known as the  
13 “Ticket to Work and Self-Sufficiency Advisory  
14 Panel” (in this subsection referred to as the  
15 “Panel”).

16 (2) DUTIES OF PANEL.—It shall be the duty of  
17 the Panel to—

18 (A) advise the Commissioner of Social Se-  
19 curity on establishing phase-in sites for the  
20 Ticket to Work and Self-Sufficiency Program  
21 and on fully implementing the Program there-  
22 after;

23 (B) advise the Commissioner with respect  
24 to the refinement of access of disabled bene-  
25 ficiaries to employment networks, payment sys-

1           tems, and management information systems  
2           and advise the Commissioner whether such  
3           measures are being taken to the extent nec-  
4           essary to ensure the success of the Program;

5           (C) advise the Commissioner regarding the  
6           most effective designs for research and dem-  
7           onstration projects associated with the Program  
8           or conducted pursuant to subsection (h);

9           (D) advise the Commissioner on the devel-  
10          opment of performance measurements relating  
11          to quality assurance under section 1147(d)(6)  
12          of the Social Security Act; and

13          (E) furnish progress reports on the Pro-  
14          gram to the President and each House of the  
15          Congress.

16          (3) MEMBERSHIP.—

17           (A) NUMBER AND APPOINTMENT.—The  
18          Panel shall be composed of 6 members as fol-  
19          lows:

20           (i) one member appointed by the  
21           Chairman of the Committee on Ways and  
22           Means of the House of Representatives;

23           (ii) one member appointed by the  
24           ranking minority member of the Commit-

1           tee on Ways and Means of the House of  
2           Representatives;

3           (iii) one member appointed by the  
4           Chairman of the Committee on Finance of  
5           the Senate;

6           (iv) one member appointed by the  
7           ranking minority member of the Commit-  
8           tee on Finance of the Senate; and

9           (v) two members appointed by the  
10          President, who may not be of the same po-  
11          litical party.

12          (B) REPRESENTATION.—Of the members  
13          appointed under subparagraph (A), at least 4  
14          shall have experience or expert knowledge as a  
15          recipient, provider, employer, or employee in the  
16          fields of, or related to, employment services, vo-  
17          cational rehabilitation services, and other sup-  
18          port services, of whom—

19           (i) at least 1 shall represent the inter-  
20           ests of recipients of employment services,  
21           vocational rehabilitation services, and other  
22           support services;

23           (ii) at least 1 shall represent the in-  
24           terests of providers of employment serv-

1           ices, vocational rehabilitation services, and  
2           other support services;

3           (iii) at least 1 shall represent the in-  
4           terests of private employers;

5           (iv) at least 1 shall represent the in-  
6           terests of employees; and

7           (v) at least 1 shall be an individual  
8           who is or has been a recipient of benefits  
9           under title II or title XVI based on disabil-  
10          ity.

11          (C) TERMS.—

12           (i) IN GENERAL.—Each member shall  
13           be appointed for a term of 4 years (or, if  
14           less, for the remaining life of the Panel),  
15           except as provided in clauses (ii) and (iii).  
16           The initial members shall be appointed not  
17           later than 90 days after the date of the en-  
18           actment of this Act.

19           (ii) TERMS OF INITIAL AP-  
20           POINTEES.—As designated by the Presi-  
21           dent at the time of appointment, of the  
22           members first appointed—

23           (I) three of the members ap-  
24           pointed under subparagraph (A) shall

1 be appointed for a term of 2 years;  
2 and

3 (II) three of the members ap-  
4 pointed under subparagraph (A) shall  
5 be appointed for a term of 4 years.

6 (iii) VACANCIES.—Any member ap-  
7 pointed to fill a vacancy occurring before  
8 the expiration of the term for which the  
9 member's predecessor was appointed shall  
10 be appointed only for the remainder of that  
11 term. A member may serve after the expi-  
12 ration of that member's term until a suc-  
13 cessor has taken office. A vacancy in the  
14 Panel shall be filled in the manner in  
15 which the original appointment was made.

16 (D) BASIC PAY.—Members shall each be  
17 paid at a rate equal to the daily equivalent of  
18 the rate of basic pay for level 4 of the Senior  
19 Executive Service, as in effect from time to  
20 time under section 5382 of title 5, United  
21 States Code, for each day (including travel  
22 time) during which they are engaged in the ac-  
23 tual performance of duties vested in the Panel.

24 (E) TRAVEL EXPENSES.—Each member  
25 shall receive travel expenses, including per diem

1 in lieu of subsistence, in accordance with sec-  
2 tions 5702 and 5703 of title 5, United States  
3 Code.

4 (F) QUORUM.—Four members of the  
5 Panel shall constitute a quorum but a lesser  
6 number may hold hearings.

7 (G) CHAIRPERSON.—The Chairperson of  
8 the Panel shall be designated by the President.  
9 The term of office of the Chairperson shall be  
10 4 years.

11 (H) MEETINGS.—The Panel shall meet at  
12 least quarterly and at other times at the call of  
13 the Chairperson or a majority of its members.

14 (4) DIRECTOR AND STAFF OF PANEL; EXPERTS  
15 AND CONSULTANTS.—

16 (A) DIRECTOR.—The Panel shall have a  
17 Director who shall be appointed by the Panel.  
18 The Director shall be paid at a rate not to ex-  
19 ceed the maximum rate of pay payable for GS-  
20 15 of the General Schedule.

21 (B) STAFF.—Subject to rules prescribed  
22 by the Panel, the Director may appoint and fix  
23 the pay of additional personnel as the Director  
24 considers appropriate.

1           (C) EXPERTS AND CONSULTANTS.—Sub-  
2           ject to rules prescribed by the Panel, the Direc-  
3           tor may procure temporary and intermittent  
4           services under section 3109(b) of title 5, United  
5           States Code.

6           (D) STAFF OF FEDERAL AGENCIES.—  
7           Upon request of the Panel, the head of any  
8           Federal department or agency may detail, on a  
9           reimbursable basis, any of the personnel of that  
10          department or agency to the Panel to assist it  
11          in carrying out its duties under this Act.

12          (5) POWERS OF PANEL.—

13           (A) HEARINGS AND SESSIONS.—The Panel  
14           may, for the purpose of carrying out its duties  
15           under this subsection, hold such hearings, sit  
16           and act at such times and places, and take such  
17           testimony and evidence as the Panel considers  
18           appropriate.

19           (B) POWERS OF MEMBERS AND AGENTS.—  
20           Any member or agent of the Panel may, if au-  
21           thorized by the Panel, take any action which  
22           the Panel is authorized to take by this section.

23           (C) MAILS.—The Panel may use the  
24           United States mails in the same manner and



1 under the same conditions as other departments  
2 and agencies of the United States.

3 (D) ADMINISTRATIVE SUPPORT SERV-  
4 ICES.—Upon the request of the Panel, the Ad-  
5 ministrator of General Services shall provide to  
6 the Panel, on a reimbursable basis, the admin-  
7 istrative support services necessary for the  
8 Panel to carry out its duties under this sub-  
9 section.

10 (6) REPORTS.—

11 (A) INTERIM REPORTS.—The Panel shall  
12 submit to the President and the Congress in-  
13 terim reports at least annually.

14 (B) FINAL REPORT.—The Panel shall  
15 transmit a final report to the President and the  
16 Congress not later than 8 years after the date  
17 of the enactment of this Act. The final report  
18 shall contain a detailed statement of the find-  
19 ings and conclusions of the Panel, together with  
20 its recommendations for legislation and admin-  
21 istrative actions which the Panel considers ap-  
22 propriate.

23 (7) TERMINATION.—The Panel shall terminate  
24 30 days after the date of the submission of its final  
25 report under paragraph (6)(B).

1           (8) AUTHORIZATION OF APPROPRIATIONS.—

2           There are authorized to be appropriated from the  
3           Federal Old-Age and Survivors Insurance Trust  
4           Fund, the Federal Disability Insurance Trust Fund,  
5           and the general fund of the Treasury, as appro-  
6           priate, such sums as are necessary to carry out this  
7           subsection.

8           (f) SPECIFIC REGULATIONS REQUIRED.—

9           (1) IN GENERAL.—The Commissioner of Social  
10          Security shall prescribe such regulations as are nec-  
11          essary to implement the amendments made by this  
12          section.

13          (2) SPECIFIC MATTERS TO BE INCLUDED IN  
14          REGULATIONS.—The matters which shall be ad-  
15          dressed in such regulations shall include (but are not  
16          limited to)—

17                (A) the form and manner in which tickets  
18                to work and self-sufficiency may be distributed  
19                to beneficiaries pursuant to section 1147(b)(1)  
20                of the Social Security Act;

21                (B) the format and wording of such tick-  
22                ets, which shall incorporate by reference any  
23                contractual terms governing service by employ-  
24                ment networks under the Program;

1 (C) the form and manner in which State  
2 agencies may elect participation in the Ticket to  
3 Work and Self-Sufficiency Program (and revoke  
4 such an election) pursuant to section  
5 1147(c)(1) of such Act and provision for peri-  
6 odic opportunities for exercising such elections  
7 (and revocations);

8 (D) the status of State agencies under sec-  
9 tion 1147(c)(2) of such Act at the time that  
10 State agencies exercise elections (and revoca-  
11 tions) under section 1147(c)(1) of such Act;

12 (E) the terms of agreements to be entered  
13 into with program managers pursuant to sec-  
14 tion 1147(d) of such Act, including (but not  
15 limited to)—

16 (i) the terms by which program man-  
17 agers are precluded from direct participa-  
18 tion in the delivery of services pursuant to  
19 section 1147(d)(3) of such Act;

20 (ii) standards which must be met by  
21 quality assurance measures referred to in  
22 paragraph (6) of section 1147(d) of such  
23 Act and methods of recruitment of employ-  
24 ment networks utilized pursuant to para-

1 graph (2) of section 1147(e) of such Act;  
2 and

3 (iii) the format under which dispute  
4 resolution will operate under section  
5 1147(d)(7) of such Act;

6 (F) the terms of agreements to be entered  
7 into with employment networks pursuant to sec-  
8 tion 1147(d)(4) of such Act, including (but not  
9 limited to)—

10 (i) the manner in which service areas  
11 are specified pursuant to section  
12 1147(f)(2)(A) of such Act;

13 (ii) the general selection criteria and  
14 the specific selection criteria which are ap-  
15 plicable to employment networks under  
16 section 1147(f)(2)(B) of such Act in select-  
17 ing service providers;

18 (iii) specific requirements relating to  
19 annual financial reporting by employment  
20 networks pursuant to section 1147(f)(3) of  
21 such Act; and

22 (iv) the national model to which peri-  
23 odic outcomes reporting by employment  
24 networks must conform under section  
25 1147(f)(4) of such Act;

1 (G) standards which must be met by indi-  
2 vidual work plans pursuant to section 1147(g)  
3 of such Act;

4 (H) standards which must be met by pay-  
5 ment systems required under section 1147(h) of  
6 such Act, including (but not limited to)—

7 (i) the form and manner in which  
8 elections by employment networks of pay-  
9 ment systems are to be exercised pursuant  
10 to section 1147(h)(1)(A) of such Act;

11 (ii) the terms which must be met by  
12 an outcome payment system under section  
13 1147(h)(2) of such Act;

14 (iii) the terms which must be met by  
15 an outcome-milestone payment system  
16 under section 1147(h)(3) of such Act;

17 (iv) any revision of the percentage  
18 specified in paragraph (2)(C) of section  
19 1147(h) of such Act or the period of time  
20 specified in paragraph (4)(B) of section  
21 1147(h) of such Act; and

22 (v) annual oversight procedures for  
23 such systems; and

24 (I) procedures for effective oversight of the  
25 Program by the Commissioner of Social Secu-

1           rity, including periodic reviews and reporting  
2           requirements.

3           (g) WORK INCENTIVE SPECIALISTS.—The Commis-  
4 sioner shall establish a corps of trained, accessible, and  
5 responsive work incentive specialists to specialize in title  
6 II and title XVI disability work incentives for the purpose  
7 of disseminating accurate information to disabled bene-  
8 ficiaries (as defined in section 1147(k)(1) of the Social  
9 Security Act, as amended by this Act) with respect to in-  
10 quires and issues relating to work incentives.

11           (h) DEMONSTRATION PROJECTS PROVIDING FOR RE-  
12 Ductions IN DISABILITY INSURANCE BENEFITS BASED  
13 ON EARNINGS. —

14           (1) AUTHORITY.—The Commissioner shall con-  
15 duct demonstration projects for the purpose of eval-  
16 uating, through the collection of data, a program for  
17 title II disability beneficiaries (as defined in section  
18 1147(k)(2) of the Social Security Act, as amended  
19 by this Act) under which each \$1 of benefits payable  
20 under section 223 of the Social Security Act, or  
21 under section 202 of such Act based on the bene-  
22 ficiary's disability, is reduced for each \$2 of such  
23 beneficiary's earnings that is above a level to be de-  
24 termined by the Commissioner. Such projects shall  
25 be conducted at a number of localities which the

1 Commissioner shall determine is sufficient to ade-  
2 quately evaluate the appropriateness of national im-  
3 plementation of such a program. Such projects shall  
4 identify reductions in Federal expenditures that may  
5 result from the permanent implementation of such  
6 a program.

7 (2) SCOPE AND SCALE AND MATTERS TO BE  
8 DETERMINED.—

9 (A) IN GENERAL.—The demonstration  
10 projects developed under paragraph (1) shall be  
11 of sufficient duration, shall be of sufficient  
12 scope, and shall be carried out on a wide  
13 enough scale to permit a thorough evaluation of  
14 the project to determine—

15 (i) the effects, if any, of induced entry  
16 and reduced exit;

17 (ii) the extent, if any, to which the  
18 project being tested is affected by whether  
19 it is in operation in a locality within an  
20 area under the administration of the Tick-  
21 et to Work and Self-Sufficiency Program;  
22 and

23 (iii) the savings that accrue to the  
24 Trust Funds and other Federal programs  
25 under the project being tested.

1 The Commissioner shall take into account ad-  
2 vice provided by the Ticket to Work and Self-  
3 Sufficiency Advisory Panel pursuant to sub-  
4 section (e)(2)(C).

5 (B) ADDITIONAL MATTERS.—The Commis-  
6 sioner shall also determine with respect to each  
7 project—

8 (i) the annual cost (including net  
9 cost) of the project and the annual cost  
10 (including net cost) that would have been  
11 incurred in the absence of the project;

12 (ii) the determinants of return to  
13 work, including the characteristics of the  
14 beneficiaries who participate in the project;  
15 and

16 (iii) the employment outcomes, includ-  
17 ing wages, occupations, benefits, and hours  
18 worked, of beneficiaries who return to work  
19 as a result of participation in the project.

20 The Commissioner may include within the mat-  
21 ters evaluated under the project the merits of  
22 trial work periods and periods of extended eligi-  
23 bility.

24 (3) WAIVERS.—The Commissioner may waive  
25 compliance with the benefit provisions of title II of



1 the Social Security Act, and the Secretary of Health  
2 and Human Services may waive compliance with the  
3 benefit requirements of title XVIII of such Act, in  
4 so far as is necessary for a thorough evaluation of  
5 the alternative methods under consideration. No  
6 such project shall be actually placed in operation un-  
7 less at least 90 days prior thereto a written report,  
8 prepared for purposes of notification and informa-  
9 tion only and containing a full and complete descrip-  
10 tion thereof, has been transmitted by the Commis-  
11 sioner to the Committee on Ways and Means of the  
12 House of Representatives and to the Committee on  
13 Finance of the Senate. Periodic reports on the  
14 progress of such projects shall be submitted by the  
15 Commissioner to such committees. When appro-  
16 priate, such reports shall include detailed rec-  
17 ommendations for changes in administration or law,  
18 or both, to carry out the objectives stated in para-  
19 graph (1).

20 (4) INTERIM REPORTS.—On or before June 9  
21 in 2000 and each of the succeeding years thereafter,  
22 the Commissioner shall submit to the Congress an  
23 interim report on the progress of the demonstration  
24 projects carried out under this subsection together

1 with any related data and materials which the Com-  
2 missioner may consider appropriate.

3 (5) FINAL REPORT.—The Commissioner shall  
4 submit to the Congress a final report with respect  
5 to all demonstration projects carried out under this  
6 section no later than 1 year after their completion.

7 (6) EXPENDITURES.—Expenditures made for  
8 demonstration projects under this subsection shall  
9 be made from the Federal Disability Insurance  
10 Trust Fund and the Federal Old-Age and Survivors  
11 Insurance Trust Fund, as determined appropriate by  
12 the Commissioner, and from the Federal Hospital  
13 Insurance Trust Fund and the Federal Supple-  
14 mentary Medical Insurance Trust Fund, as deter-  
15 mined appropriate by the Secretary of Health and  
16 Human Services, to the extent provided in advance  
17 in appropriation Acts.

18 (i) STUDY BY GENERAL ACCOUNTING OFFICE OF  
19 EXISTING DISABILITY-RELATED EMPLOYMENT INCEN-  
20 TIVES.—

21 (1) STUDY.—As soon as practicable after the  
22 date of the enactment of this Act, the Comptroller  
23 General of the United States shall undertake a study  
24 to assess existing tax credits and other disability-re-  
25 lated employment incentives under the Americans

1 with Disabilities Act of 1990 and other Federal  
2 laws. In such study, the Comptroller General shall  
3 specifically address the extent to which such credits  
4 and other incentives would encourage employers to  
5 hire and retain individuals with disabilities under the  
6 Ticket to Work and Self-Sufficiency Program.

7 (2) REPORT.—Not later than 3 years after the  
8 date of the enactment of this Act, the Comptroller  
9 General shall transmit to the Committee on Ways  
10 and Means of the House of Representatives and the  
11 Committee on Finance of the Senate a written re-  
12 port presenting the results of the Comptroller Gen-  
13 eral's study conducted pursuant to this subsection,  
14 together with such recommendations for legislative  
15 or administrative changes as the Comptroller Gen-  
16 eral may determine to be appropriate.

17 (j) STUDY BY GENERAL ACCOUNTING OFFICE OF  
18 EXISTING COORDINATION OF THE DI AND SSI PROGRAMS  
19 AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAV-  
20 ING CONCURRENT ENTITLEMENT.—

21 (1) STUDY.—As soon as practicable after the  
22 date of the enactment of this Act, the Comptroller  
23 General of the United States shall undertake a study  
24 to evaluate the coordination under current law of the  
25 disability insurance program under title II of the So-

1      cial Security Act and the supplemental security in-  
2      come program under title XVI of such Act, as such  
3      programs relate to individuals entering or leaving  
4      concurrent entitlement under such programs. In  
5      such study, the Comptroller General shall specifically  
6      address the effectiveness of work incentives under  
7      such programs with respect to such individuals and  
8      the effectiveness of coverage of such individuals  
9      under titles XVIII and XIX of such Act.

10           (2) REPORT.—Not later than 18 months after  
11      the date of the enactment of this Act, the Comptrol-  
12      ler General shall transmit to the Committee on  
13      Ways and Means of the House of Representatives  
14      and the Committee on Finance of the Senate a writ-  
15      ten report presenting the results of the Comptroller  
16      General's study conducted pursuant to this sub-  
17      section, together with such recommendations for leg-  
18      islative or administrative changes as the Comptroller  
19      General may determine to be appropriate.

1 **SEC. 3. EXTENDING MEDICARE COVERAGE FOR OASDI DIS-**  
2 **ABILITY BENEFIT RECIPIENTS WHO ARE**  
3 **USING TICKETS TO WORK AND SELF-SUFFI-**  
4 **CIENCY.**

5 (a) **IN GENERAL.**—The next to last sentence of sec-  
6 tion 226(b) of the Social Security Act (42 U.S.C. 426)  
7 is amended—

8 (1) by striking “throughout all of which” and  
9 inserting “throughout the first 24 months of which”;  
10 and

11 (2) by inserting after “but not in excess of 24  
12 such months” the following: “(plus 24 additional  
13 such months in the case of an individual who the  
14 Commissioner determines is using a ticket to work  
15 and self-sufficiency issued under section 1147, but  
16 only for additional months that occur in the 7-year  
17 period beginning on the date of the enactment of the  
18 Ticket to Work and Self-Sufficiency Act of 1999)”.

19 (b) **REPORT.**—Not later than 6 months prior to the  
20 end of the 7-year period beginning on the date of the en-  
21 actment of this Act, the Secretary of Health and Human  
22 Services and the Commissioner of Social Security shall  
23 submit in writing to each House of the Congress their rec-  
24 ommendations for further legislative action with respect  
25 to the amendments made by subsection (a), taking into  
26 account experience derived from efforts to achieve full im-

1 plementation of the Ticket to Work and Self Sufficiency  
2 Program under section 1147 of the Social Security Act.

3 **SEC. 4. TECHNICAL AMENDMENTS RELATING TO DRUG AD-**  
4 **ICTS AND ALCOHOLICS.**

5 (a) CLARIFICATION RELATING TO THE EFFECTIVE  
6 DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY  
7 BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Sec-  
8 tion 105(a)(5) of the Contract with America Advancement  
9 Act of 1996 (Public Law 104–121; 110 Stat. 853) is  
10 amended—

11 (1) in subparagraph (A), by striking “by the  
12 Commissioner of Social Security” and “by the Com-  
13 missioner”; and

14 (2) by adding at the end the following new sub-  
15 paragraphs:

16 “(D) For purposes of this paragraph, an  
17 individual’s claim, with respect to benefits  
18 under title II of the Social Security Act based  
19 on disability, which has been denied in whole  
20 before the date of the enactment of this Act,  
21 may not be considered to be finally adjudicated  
22 before such date if, on or after such date—

23 “(i) there is pending a request for ei-  
24 ther administrative or judicial review with  
25 respect to such claim; or

1                   “(ii) there is pending, with respect to  
2                   such claim, a readjudication by the Com-  
3                   missioner of Social Security pursuant to  
4                   relief in a class action or implementation  
5                   by the Commissioner of a court remand  
6                   order.

7                   “(E) Notwithstanding the provisions of  
8                   this paragraph, with respect to any individual  
9                   for whom the Commissioner of Social Security  
10                  does not perform the entitlement redetermina-  
11                  tion before the date prescribed in subparagraph  
12                  (C), the Commissioner shall perform such enti-  
13                  tlement redetermination in lieu of a continuing  
14                  disability review whenever the Commissioner de-  
15                  termines that the individual’s entitlement is  
16                  subject to redetermination based on the preced-  
17                  ing provisions of this paragraph, and the provi-  
18                  sions of section 223(f) of the Social Security  
19                  Act shall not apply to such redetermination.”.

20                  (b) CORRECTION TO EFFECTIVE DATE OF PROVI-  
21                  SIONS CONCERNING REPRESENTATIVE PAYEES AND  
22                  TREATMENT REFERRALS OF SOCIAL SECURITY BENE-  
23                  FIICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—  
24                  Section 105(a)(5)(B) of such Act (Public Law 104–121;  
25                  110 Stat. 853) is amended to read as follows:

1           “(B) The amendments made by para-  
2           graphs (2) and (3) shall take effect on July 1,  
3           1996, with respect to any individual—

4                   “(i) whose claim for benefits is finally  
5                   adjudicated on or after the date of the en-  
6                   actment of this Act; or

7                   “(ii) whose entitlement to benefits is  
8                   based upon an entitlement redetermination  
9                   made pursuant to subparagraph (C).”.

10       (c) **EFFECTIVE DATES.**—The amendments made by  
11 this section shall take effect as if included in the enact-  
12 ment of section 105 of the Contract with America Ad-  
13 vancement Act of 1996 (Public Law 104–121; 110 Stat.  
14 852 et seq.).

15 **SEC. 5. EXTENSION OF DISABILITY INSURANCE PROGRAM**  
16 **DEMONSTRATION PROJECT AUTHORITY.**

17       (a) **IN GENERAL.**—Section 505 of the Social Security  
18 Disability Amendments of 1980 (Public Law 96–265; 94  
19 Stat. 473), as amended by section 12101 of the Consoli-  
20 dated Omnibus Budget Reconciliation Act of 1985 (Public  
21 Law 99–272; 100 Stat. 282), section 10103 of the Omni-  
22 bus Budget Reconciliation Act of 1989 (Public Law 101–  
23 239; 103 Stat. 2472), section 5120(f) of the Omnibus  
24 Budget Reconciliation Act of 1990 (Public Law 101–508;  
25 104 Stat. 1388–282), and section 315 of the Social Secu-



1 rity Independence and Program Improvements Act of  
2 1994 (Public Law 103-296; 108 Stat. 1531), is further  
3 amended—

4 (1) in paragraph (1) of subsection (a), by add-  
5 ing at the end the following new sentence: “The  
6 Commissioner may expand the scope of any such  
7 demonstration project to include any group of appli-  
8 cants for benefits under such program with impair-  
9 ments which may reasonably be presumed to be dis-  
10 abling for purposes of such demonstration project,  
11 and may limit any such demonstration project to  
12 any such group of applicants, subject to the terms  
13 of such demonstration project which shall define the  
14 extent of any such presumption.”;

15 (2) in paragraph (3) of subsection (a), by strik-  
16 ing “June 10, 1996” and inserting “June 10,  
17 2001”;

18 (3) in paragraph (4) of subsection (a), by in-  
19 serting “and on or before October 1, 2000,” after  
20 “1995,”; and

21 (4) in subsection (c), by striking “October 1,  
22 1996” and inserting “October 1, 2001”.

23 (b) EFFECTIVE DATE.—The amendments made by  
24 subsection (a) shall take effect on the date of the enact-  
25 ment of this Act.

1 **SEC. 6. TREATMENT OF PRISONERS.**

2 (a) IMPLEMENTATION OF PROHIBITION AGAINST  
3 PAYMENT OF TITLE II BENEFITS TO PRISONERS.—

4 (1) IN GENERAL.—Section 202(x)(3) of the So-  
5 cial Security Act (42 U.S.C. 402(x)(3)) is  
6 amended—

7 (A) by inserting “(A)” after “(3)”; and

8 (B) by adding at the end the following new  
9 subparagraph:

10 “(B)(i) The Commissioner shall enter into an agree-  
11 ment under this subparagraph with any interested State  
12 or local institution comprising a jail, prison, penal institu-  
13 tion, or correctional facility, or comprising any other insti-  
14 tution a purpose of which is to confine individuals as de-  
15 scribed in paragraph (1)(A)(ii). Under such agreement—

16 “(I) the institution shall provide to the Com-  
17 missioner, on a monthly basis and in a manner spec-  
18 ified by the Commissioner, the names, Social Secu-  
19 rity account numbers, dates of birth, confinement  
20 commencement dates, and, to the extent available to  
21 the institution, such other identifying information  
22 concerning the individuals confined in the institution  
23 as the Commissioner may require for the purpose of  
24 carrying out paragraph (1); and

25 “(II) the Commissioner shall pay to the institu-  
26 tion, with respect to information described in sub-

1 clause (I) concerning each individual who is confined  
2 therein as described in paragraph (1)(A), who re-  
3 ceives a benefit under this title for the month pre-  
4 ceding the first month of such confinement, and  
5 whose benefit under this title is determined by the  
6 Commissioner to be not payable by reason of con-  
7 finement based on the information provided by the  
8 institution, \$400 (subject to reduction under clause  
9 (ii)) if the institution furnishes the information to  
10 the Commissioner within 30 days after the date such  
11 individual's confinement in such institution begins,  
12 or \$200 (subject to reduction under clause (ii)) if  
13 the institution furnishes the information after 30  
14 days after such date but within 90 days after such  
15 date.

16 “(ii) The dollar amounts specified in clause (i)(II)  
17 shall be reduced by 50 percent if the Commissioner is also  
18 required to make a payment to the institution with respect  
19 to the same individual under an agreement entered into  
20 under section 1611(e)(1)(I).

21 “(iii) The provisions of section 552a of title 5, United  
22 States Code, shall not apply to any agreement entered into  
23 under clause (i) or to information exchanged pursuant to  
24 such agreement.

1       “(iv) There is authorized to be transferred from the  
 2 Federal Old-Age and Survivors Insurance Trust Fund and  
 3 the Federal Disability Insurance Trust Fund, as appro-  
 4 priate, such sums as may be necessary to enable the Com-  
 5 missioner to make payments to institutions required by  
 6 clause (i)(II).

7       “(v) The Commissioner is authorized to provide, on  
 8 a reimbursable basis, information obtained pursuant to  
 9 agreements entered into under clause (i) to any agency  
 10 administering a Federal or federally-assisted cash, food,  
 11 or medical assistance program for eligibility purposes.”.

12       (2) EFFECTIVE DATE.—The amendments made  
 13 by this subsection shall apply to individuals whose  
 14 period of confinement in an institution commences  
 15 on or after the first day of the fourth month begin-  
 16 ning after the month in which this Act is enacted.

17       (b) ELIMINATION OF TITLE II REQUIREMENT THAT  
 18 CONFINEMENT STEM FROM CRIME PUNISHABLE BY IM-  
 19 PRISONMENT FOR MORE THAN 1 YEAR.—

20       (1) IN GENERAL.—Section 202(x)(1)(A) of such  
 21 Act (42 U.S.C. 402(x)(1)(A)) is amended—

22               (A) in the matter preceding clause (i), by  
 23 striking “during” and inserting “throughout”;

24               (B) in clause (i), by striking “an offense  
 25 punishable by imprisonment for more than 1

1 year (regardless of the actual sentence im-  
 2 posed)” and inserting “a criminal offense”; and

3 (C) in clause (ii)(I), by striking “an of-  
 4 fense punishable by imprisonment for more  
 5 than 1 year” and inserting “a criminal of-  
 6 fense”.

7 (2) EFFECTIVE DATE.—The amendments made  
 8 by this subsection shall apply to individuals whose  
 9 period of confinement in an institution commences  
 10 on or after the first day of the fourth month begin-  
 11 ning after the month in which this Act is enacted.

12 (c) CONFORMING TITLE XVI AMENDMENTS.—

13 (1) FIFTY PERCENT REDUCTION IN TITLE XVI  
 14 PAYMENT IN CASE INVOLVING COMPARABLE TITLE II  
 15 PAYMENT.—Section 1611(e)(1)(I) of the Social Se-  
 16 curity Act (42 U.S.C. 1382(e)(1)(I)) is amended—

17 (A) in clause (i)(II), by inserting “(subject  
 18 to reduction under clause (ii))” after “\$400”  
 19 and after “\$200”;

20 (B) by redesignating clauses (ii) and (iii)  
 21 as clauses (iii) and (iv) respectively; and

22 (C) by inserting after clause (i) the follow-  
 23 ing new clause:

24 “(ii) The dollar amounts specified in clause (i)(II)  
 25 shall be reduced by 50 percent if the Commissioner is also

1 required to make a payment to the institution with respect  
2 to the same individual under an agreement entered into  
3 under section 202(x)(3)(B).”.

4           (2) EXPANSION OF CATEGORIES OF INSTITU-  
5 TIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH  
6 THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of  
7 such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in  
8 the matter preceding subclause (I) by striking “in-  
9 stitution” and all that follows through “section  
10 202(x)(1)(A),” and inserting “institution comprising  
11 a jail, prison, penal institution, or correctional facil-  
12 ity, or with any other interested State or local insti-  
13 tution a purpose of which is to confine individuals  
14 as described in section 202(x)(1)(A)(ii).”.

15           (3) EFFECTIVE DATE.—The amendments made  
16 by this subsection shall take effect as if included in  
17 the enactment of section 203(a) of the Personal Re-  
18 sponsibility and Work Opportunity Reconciliation  
19 Act of 1996 (Public Law 104–193; 110 Stat. 2186).  
20 The reference to section 202(x)(1)(A)(ii) of the So-  
21 cial Security Act in section 1611(e)(1)(I)(i) of such  
22 Act as amended by paragraph (2) shall be deemed  
23 a reference to such section 202(x)(1)(A)(ii) as  
24 amended by subsection (b)(1)(C).

1 (d) CONTINUED DENIAL OF BENEFITS TO SEX OF-  
 2 FENDERS REMAINING CONFINED TO PUBLIC INSTITU-  
 3 TIONS UPON COMPLETION OF PRISON TERM.—

4 (1) IN GENERAL.—Section 202(x)(1)(A) of the  
 5 Social Security Act (42 U.S.C. 402(x)(1)(A)) is  
 6 amended—

7 (A) in clause (i), by striking “or” at the  
 8 end;

9 (B) in clause (ii)(IV), by striking the pe-  
 10 riod and inserting “, or”; and

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

13 “(iii) immediately upon completion of confine-  
 14 ment as described in clause (i) pursuant to convic-  
 15 tion of a criminal offense an element of which is sex-  
 16 ual activity, is confined by court order in an institu-  
 17 tion at public expense pursuant to a finding that the  
 18 individual is a sexually dangerous person or a sexual  
 19 predator or a similar finding.”.

20 (2) CONFORMING AMENDMENT.—Section  
 21 202(x)(1)(B)(ii) of such Act (42 U.S.C.  
 22 402(x)(1)(B)(ii)) is amended by striking “clause  
 23 (ii)” and inserting “clauses (ii) and (iii)”.

24 (3) EFFECTIVE DATE.—The amendments made  
 25 by this subsection shall apply with respect to bene-

1 fits for months ending after the date of the enact-  
2 ment of this Act.

3 **SEC. 7. REVOCATION BY MEMBERS OF THE CLERGY OF EX-**  
4 **EMPTION FROM SOCIAL SECURITY COV-**  
5 **ERAGE.**

6 (a) IN GENERAL.—Notwithstanding section  
7 1402(e)(4) of the Internal Revenue Code of 1986, any ex-  
8 emption which has been received under section 1402(e)(1)  
9 of such Code by a duly ordained, commissioned, or li-  
10 censed minister of a church, a member of a religious order,  
11 or a Christian Science practitioner, and which is effective  
12 for the taxable year in which this Act is enacted, may be  
13 revoked by filing an application therefor (in such form and  
14 manner, and with such official, as may be prescribed in  
15 regulations made under chapter 2 of such Code), if such  
16 application is filed no later than the due date of the Fed-  
17 eral income tax return (including any extension thereof)  
18 for the applicant's second taxable year beginning after De-  
19 cember 31, 1998. Any such revocation shall be effective  
20 (for purposes of chapter 2 of the Internal Revenue Code  
21 of 1986 and title II of the Social Security Act), as speci-  
22 fied in the application, either with respect to the appli-  
23 cant's first taxable year beginning after December 31,  
24 1998, or with respect to the applicant's second taxable  
25 year beginning after such date, and for all succeeding tax-



1 able years; and the applicant for any such revocation may  
2 not thereafter again file application for an exemption  
3 under such section 1402(e)(1). If the application is filed  
4 after the due date of the applicant's Federal income tax  
5 return for a taxable year and is effective with respect to  
6 that taxable year, it shall include or be accompanied by  
7 payment in full of an amount equal to the total of the  
8 taxes that would have been imposed by section 1401 of  
9 the Internal Revenue Code of 1986 with respect to all of  
10 the applicant's income derived in that taxable year which  
11 would have constituted net earnings from self-employment  
12 for purposes of chapter 2 of such Code (notwithstanding  
13 section 1402 (c)(4) or (c)(5) of such Code) except for the  
14 exemption under section 1402(e)(1) of such Code.

15 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
16 with respect to service performed (to the extent specified  
17 in such subsection) in taxable years beginning after De-  
18 cember 31, 1998, and with respect to monthly insurance  
19 benefits payable under title II of the Social Security Act  
20 on the basis of the wages and self-employment income of  
21 any individual for months in or after the calendar year  
22 in which such individual's application for revocation (as  
23 described in such subsection) is effective (and lump-sum  
24 death payments payable under such title on the basis of

1 such wages and self-employment income in the case of  
2 deaths occurring in or after such calendar year).

3 **SEC. 8. ADDITIONAL TECHNICAL AMENDMENT RELATING**  
4 **TO COOPERATIVE RESEARCH OR DEM-**  
5 **ONSTRATION PROJECTS UNDER TITLES II**  
6 **AND XVI.**

7 (a) **IN GENERAL.**—Section 1110(a)(3) of the Social  
8 Security Act (42 U.S.C. 1310(a)(3)) is amended by strik-  
9 ing “title XVI” and inserting “title II or XVI”.

10 (b) **EFFECTIVE DATE.**—The amendment made by  
11 subsection (a) shall take effect as if included in the enact-  
12 ment of the Social Security Independence and Program  
13 Improvements Act of 1994 (Public Law 103–296; 108  
14 Stat. 1464).

○



105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3433

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1998

Mr. BUNNING (for himself and Mrs. KENNELLY of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means.

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## A BILL

To amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ticket to Work and  
3 Self-Sufficiency Act of 1998”.

4 **SEC. 2. THE TICKET TO WORK AND SELF-SUFFICIENCY**  
5 **PROGRAM.**

6 (a) IN GENERAL.—Part A of title XI of the Social  
7 Security Act (42 U.S.C. 1301 et seq.) is amended by add-  
8 ing at the end the following new section:

9 “THE TICKET TO WORK AND SELF-SUFFICIENCY  
10 PROGRAM

11 “SEC. 1147. (a) IN GENERAL.—The Commissioner  
12 of Social Security shall establish a Ticket to Work and  
13 Self-Sufficiency Program, under which a disabled bene-  
14 ficiary may use a ticket to work and self-sufficiency issued  
15 by the Commissioner in accordance with this section to  
16 obtain employment services, vocational rehabilitation serv-  
17 ices, or other support services from an employment net-  
18 work which is of the beneficiary’s choice and which is will-  
19 ing to provide such services to such beneficiary.

20 “(b) TICKET SYSTEM.—

21 “(1) DISTRIBUTION OF TICKETS.—The Com-  
22 missioner of Social Security may issue a ticket to  
23 work and self-sufficiency to disabled beneficiaries for  
24 participation in the Program.

25 “(2) ASSIGNMENT OF TICKETS.—A disabled  
26 beneficiary holding a ticket to work and self-suffi-

1       ciency may assign the ticket to any employment net-  
2       work of the beneficiary's choice which is serving  
3       under the Program and is willing to accept the as-  
4       signment.

5           “(3) TICKET TERMS.—A ticket issued under  
6       paragraph (1) shall consist of a document which evi-  
7       dences the Commissioner's agreement to pay (as  
8       provided in paragraph (4)) an employment network,  
9       which is serving under the Program and to which  
10      such ticket is assigned by the beneficiary, for such  
11      employment services, vocational rehabilitation serv-  
12      ices, and other support services as the employment  
13      network may agree to provide to the beneficiary.

14          “(4) PAYMENTS TO EMPLOYMENT NET-  
15      WORKS.—The Commissioner shall pay an employ-  
16      ment network under the Program in accordance with  
17      the outcome payment system under subsection  
18      (h)(2) or under the outcome-milestone payment sys-  
19      tem under subsection (h)(3) (whichever is elected  
20      pursuant to subsection (h)(1)). An employment net-  
21      work may not request or receive compensation for  
22      such services from the beneficiary.

23          “(c) STATE PARTICIPATION.—

24           “(1) PERIODIC ELECTIONS.—Each State agen-  
25      cy described in section 222 or 1615 may elect to

1 participate in the Program (or to revoke any such  
2 election) as an employment network. The Commis-  
3 sioner shall provide for periodic opportunities for ex-  
4 exercising such elections (and revocations).

5 “(2) TREATMENT OF STATE AGENCIES.—Any  
6 such election (or revocation) by a State agency de-  
7 scribed in section 222 or 1615 taking effect during  
8 any period for which an individual residing in the  
9 State is a disabled beneficiary and a client of the  
10 State agency shall not be effective with respect to  
11 such individual to the extent that such election (or  
12 revocation) would result in any change in the meth-  
13 od of payment to the State agency with respect to  
14 the individual from the method of payment to the  
15 State agency with respect to the individual in effect  
16 immediately before such election (or revocation).

17 “(3) EFFECT OF PARTICIPATION BY STATE  
18 AGENCY.—

19 “(A) STATE AGENCIES PARTICIPATING.—

20 In any case in which a State agency described  
21 in section 222 or 1615 elects under paragraph  
22 (1) to participate in the Program—

23 “(i) the employment services, voca-  
24 tional rehabilitation services, and other  
25 support services which, upon assignment of

1 tickets to work and self-sufficiency, are  
2 provided to disabled beneficiaries by the  
3 State agency acting as an employment net-  
4 work shall be governed by plans for voca-  
5 tional rehabilitation services approved  
6 under title I of the Rehabilitation Act of  
7 1973, and

8 “(ii) the provisions of section 222(d)  
9 and the provisions of section 1615 shall  
10 not apply with respect to such State.

11 “(B) STATE AGENCIES ADMINISTERING  
12 MATERNAL AND CHILD HEALTH SERVICES PRO-  
13 GRAMS.—Subparagraph (A) shall not apply  
14 with respect to any State agency administering  
15 a program under title V of this Act.

16 “(d) RESPONSIBILITIES OF THE COMMISSIONER OF  
17 SOCIAL SECURITY.—

18 “(1) SELECTION AND QUALIFICATIONS OF PRO-  
19 GRAM MANAGERS.—The Commissioner of Social Se-  
20 curity shall enter into agreements with one or more  
21 organizations in the private or public sector for serv-  
22 ice as a program manager to assist the Commis-  
23 sioner in administering the Program. Any such pro-  
24 gram manager shall be selected by means of a com-  
25 petitive bidding process, from among organizations



1 in the private or public sector with available exper-  
2 tise and experience in the field of vocational rehabili-  
3 tation or employment services.

4 “(2) TENURE, RENEWAL, AND EARLY TERMI-  
5 NATION.—Each agreement entered into under para-  
6 graph (1) shall provide for early termination upon  
7 failure to meet performance standards which shall be  
8 specified in the agreement and which shall be  
9 weighted to take into account any performance in  
10 prior terms. Such performance standards shall in-  
11 clude (but are not limited to)—

12 “(A) measures for ease of access by bene-  
13 ficiaries to services, and

14 “(B) measures for determining the extent  
15 to which failures in obtaining services for bene-  
16 ficiaries fall within acceptable parameters, as  
17 determined by the Commissioner.

18 “(3) PRECLUSION FROM DIRECT PARTICIPA-  
19 TION IN DELIVERY OF SERVICES IN OWN SERVICE  
20 AREA.—Agreements under paragraph (1) shall pre-  
21 clude—

22 “(A) direct participation by a program  
23 manager in the delivery of employment services,  
24 vocational rehabilitation services, or other sup-  
25 port services to beneficiaries in the service area

1 covered by the program manager's agreement,  
2 and

3 "(B) the holding by a program manager of  
4 a financial interest in an employment network  
5 or service provider which provides services in a  
6 geographic area covered under the program  
7 manager's agreement.

8 "(4) SELECTION OF EMPLOYMENT NET-  
9 WORKS.—The Commissioner shall select and enter  
10 into agreements with employment networks for serv-  
11 ice under the Program. Such employment networks  
12 shall be in addition to State agencies serving as em-  
13 ployment networks pursuant to elections under sub-  
14 section (c).

15 "(5) TERMINATION OF AGREEMENTS WITH EM-  
16 PLOYMENT NETWORKS.—The Commissioner shall  
17 terminate agreements with employment networks for  
18 inadequate performance, as determined by the Com-  
19 missioner.

20 "(6) QUALITY ASSURANCE.—The Commissioner  
21 shall provide for such periodic reviews as are nec-  
22 essary to provide for effective quality assurance in  
23 the provision of services by employment networks.  
24 The Commissioner shall take into account the views  
25 of consumers and the program manager under which

1 the employment networks serve and shall consult  
2 with providers of services to develop performance  
3 measurements. The Commissioner shall ensure that  
4 the results of the periodic reviews are made available  
5 to beneficiaries who are prospective service recipients  
6 as they select employment networks. The Commis-  
7 sioner shall ensure the performance of periodic sur-  
8 veys of beneficiaries receiving services under the  
9 Program designed to measure customer service satis-  
10 faction.

11 “(7) DISPUTE RESOLUTION.—The Commis-  
12 sioner shall provide for a mechanism for resolving  
13 disputes between beneficiaries and employment net-  
14 works and between program managers and employ-  
15 ment networks. The Commissioner shall afford a  
16 party to such a dispute a reasonable opportunity for  
17 a full and fair review of the matter in dispute.

18 “(e) PROGRAM MANAGERS.—

19 “(1) IN GENERAL.—A program manager shall  
20 conduct tasks appropriate to assist the Commis-  
21 sioner in carrying out the Commissioner’s duties in  
22 administering the Program.

23 “(2) RECRUITMENT OF EMPLOYMENT NET-  
24 WORKS.—A program manager shall recruit, and rec-  
25 ommend for selection by the Commissioner, employ-

1       ment networks for service under the Program. The  
2       program manager shall carry out such recruitment  
3       and provide such recommendations, and shall mon-  
4       itor all employment networks serving in the Program  
5       in the geographic area covered under the program  
6       manager's agreement, to the extent necessary and  
7       appropriate to ensure that adequate choices of serv-  
8       ices are made available to beneficiaries. Employment  
9       networks may serve under the Program only pursu-  
10      ant to an agreement entered into with the Commis-  
11      sioner under the Program incorporating the applica-  
12      ble provisions of this section and regulations there-  
13      under, and the program manager shall provide and  
14      maintain assurances to the Commissioner that pay-  
15      ment by the Commissioner to employment networks  
16      pursuant to this section is warranted based on com-  
17      pliance by such employment networks with the terms  
18      of such agreement and this section. The program  
19      manager shall not impose numerical limits on the  
20      number of employment networks to be recommended  
21      pursuant to this paragraph.

22           “(3) FACILITATION OF ACCESS BY BENE-  
23      FICIARIES TO EMPLOYMENT NETWORKS.—A pro-  
24      gram manager shall facilitate access by beneficiaries  
25      to employment networks. The program manager

1 shall ensure that each beneficiary is allowed changes  
2 in employment networks for good cause, as deter-  
3 mined by the Commissioner, without being deemed  
4 to have rejected services under the Program. The  
5 program manager shall establish and maintain lists  
6 of employment networks available to beneficiaries  
7 and shall make such lists generally available to the  
8 public.

9 “(4) ENSURING AVAILABILITY OF ADEQUATE  
10 SERVICES.—The program manager shall ensure that  
11 employment networks provide employment services,  
12 vocational rehabilitation services, or other support  
13 services to beneficiaries throughout specified service  
14 areas, including rural areas.

15 “(5) REASONABLE ACCESS TO SERVICES.—The  
16 program manager shall take such measures as are  
17 necessary to ensure that sufficient employment net-  
18 works are available and that each beneficiary receiv-  
19 ing their services under the Program has reasonable  
20 access to employment services, vocational rehabilita-  
21 tion services, or other support services. Such services  
22 may include case management, career planning, ca-  
23 reer plan development, vocational assessment, job  
24 training, placement, follow-up services, and such

1 other services as may be specified by the Commis-  
2 sioner under the Program.

3 “(f) EMPLOYMENT NETWORKS.—

4 “(1) QUALIFICATIONS FOR EMPLOYMENT NET-  
5 WORKS.—Each employment network serving under  
6 the Program shall consist of an agency or instru-  
7 mentality of a State (or a political subdivision there-  
8 of) or a private entity, which assumes responsibility  
9 for the coordination and delivery of services under  
10 the Program to individuals assigning to the employ-  
11 ment network tickets to work and self-sufficiency  
12 issued under subsection (b). No employment network  
13 may serve under the Program unless it demonstrates  
14 to the Commissioner substantial expertise and expe-  
15 rience in the field of employment services, vocational  
16 rehabilitation services, or other support services for  
17 individuals with disabilities and provides an array of  
18 such services. An employment network shall consist  
19 of either a single provider of such services or of an  
20 association of such providers organized so as to com-  
21 bine their resources into a single entity. An employ-  
22 ment network may meet the requirements of sub-  
23 section (e)(4) by providing services directly, or by  
24 entering into agreements with other individuals or  
25 entities providing appropriate employment services,

1 vocational rehabilitation services, or other support  
2 services.

3 “(2) REQUIREMENTS RELATING TO PROVISION  
4 OF SERVICES.—Each employment network serving  
5 under the Program shall be required under the  
6 terms of its agreement with the Commissioner to—

7 “(A) serve prescribed service areas,

8 “(B) meet, and maintain compliance with,  
9 both general selection criteria (such as profes-  
10 sional and governmental certification and edu-  
11 cational credentials) and specific selection cri-  
12 teria (such as the extent of work experience by  
13 the provider with specific populations), and

14 “(C) take such measures as are necessary  
15 to ensure that employment services, vocational  
16 rehabilitation services, and other support serv-  
17 ices provided under the Program by, or under  
18 agreements entered into with, the employment  
19 network are provided under appropriate individ-  
20 ual employment plans meeting the requirements  
21 of subsection (g).

22 “(3) ANNUAL FINANCIAL REPORTING.—Each  
23 employment network shall meet financial reporting  
24 requirements as prescribed by the Commissioner.

1           “(4) PERIODIC OUTCOMES REPORTING.—Each  
2           employment network shall prepare periodic reports,  
3           on at least an annual basis, itemizing for the covered  
4           period specific outcomes achieved with respect to  
5           specific services provided by the employment net-  
6           work. Such reports shall conform to a national  
7           model prescribed under this section. Each employ-  
8           ment network shall provide a copy of the latest re-  
9           port issued by the employment network pursuant to  
10          this paragraph to each beneficiary upon enrollment  
11          under the Program for services to be received  
12          through such employment network. Upon issuance of  
13          each report to each beneficiary, a copy of the report  
14          shall be maintained in the files of the employment  
15          network pertaining to the beneficiary. The program  
16          manager shall ensure that copies of all such reports  
17          issued under this paragraph are made available to  
18          the public under reasonable terms.

19          “(g) INDIVIDUAL EMPLOYMENT PLANS.—

20                 “(1) IN GENERAL.—Each employment network  
21                 shall—

22                         “(A) take such measures as are necessary  
23                         to ensure that employment services, vocational  
24                         rehabilitation services, and other support serv-  
25                         ices provided under the Program by, or under



1 agreements entered into with, the employment  
2 network are provided under appropriate individ-  
3 ual employment plans as defined by the Com-  
4 missioner, and

5 “(B) develop and implement each such in-  
6 dividual employment plan, in the case of each  
7 beneficiary receiving such services, in a manner  
8 that affords such beneficiary the opportunity to  
9 exercise informed choice in selecting an employ-  
10 ment goal and specific services needed to  
11 achieve that employment goal.

12 A beneficiary’s individual employment plan shall  
13 take effect upon approval by the beneficiary.

14 “(2) EMPLOYMENT EVALUATION.—In devising  
15 the employment plan, the employment network shall  
16 undertake an employment evaluation with respect to  
17 the beneficiary. Each employment evaluation shall  
18 set forth in writing such elements and shall be in  
19 such format as the Commissioner shall prescribe.

20 “(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

21 “(1) ELECTION OF PAYMENT SYSTEM BY EM-  
22 PLOYMENT NETWORKS.—

23 “(A) IN GENERAL.—The Program shall  
24 provide for payment authorized by the Commis-  
25 sioner to employment networks under either an

1 outcome payment system or an outcome-mile-  
2 stone payment system. Each employment net-  
3 work shall elect which payment system will be  
4 utilized by the employment network, and, for  
5 such period of time as such election remains in  
6 effect, the payment system so elected shall be  
7 utilized exclusively in connection with such em-  
8 ployment network (except as provided in sub-  
9 paragraph (B)).

10 “(B) METHOD OF PAYMENT TO EMPLOY-  
11 MENT NETWORKS.—Any such election by an  
12 employment network taking effect during any  
13 period for which a disabled beneficiary is receiv-  
14 ing services from such employment network  
15 shall not be effective with respect to such bene-  
16 ficiary to the extent that such election would re-  
17 sult in any change in the method of payment to  
18 the employment network with respect to serv-  
19 ices provided to such beneficiary from the meth-  
20 od of payment to the employment network with  
21 respect to services provided to such beneficiary  
22 as of immediately before such election.

23 “(2) OUTCOME PAYMENT SYSTEM.—

24 “(A) IN GENERAL.—The outcome payment  
25 system shall consist of a payment structure gov-

1 erning employment networks electing such sys-  
2 tem under paragraph (1)(A) which meets the  
3 requirements of this paragraph.

4 “(B) PAYMENTS MADE DURING OUTCOME  
5 PAYMENT PERIOD.—The outcome payment sys-  
6 tem shall provide for a schedule of payments to  
7 an employment network, in connection with  
8 each individual who is a beneficiary, for each  
9 month described in paragraph (4)(B) in connec-  
10 tion with such individual which occurs during  
11 the individual’s outcome payment period.

12 “(C) COMPUTATION OF PAYMENTS TO EM-  
13 PLOYMENT NETWORK.—The payment schedule  
14 of the outcome payment system shall be de-  
15 signed so that—

16 “(i) the payment for each of the 60  
17 months during the outcome payment pe-  
18 riod which are described in paragraph  
19 (4)(B) is equal to a fixed percentage of the  
20 payment calculation base for the calendar  
21 year in which such month occurs, and

22 “(ii) such fixed percentage is set at a  
23 percentage which does not exceed 40 per-  
24 cent.

1           “(3) OUTCOME-MILESTONE PAYMENT SYS-  
2           TEM.—

3           “(A) IN GENERAL.—The outcome-mile-  
4           stone payment system shall consist of a pay-  
5           ment structure governing employment networks  
6           electing such system under paragraph (1)(A)  
7           which meets the requirements of this para-  
8           graph.

9           “(B) EARLY PAYMENTS UPON ATTAIN-  
10           MENT OF MILESTONES IN ADVANCE OF OUT-  
11           COME PAYMENT PERIODS.—The outcome-mile-  
12           stone payment system shall provide for one or  
13           more milestones, with respect to beneficiaries  
14           receiving services from an employment network  
15           under the Program, which are directed toward  
16           the goal of permanent employment. Such mile-  
17           stones shall form a part of a payment structure  
18           which provides, in addition to payments made  
19           during outcome payment periods, payments  
20           made prior to outcome payment periods in  
21           amounts based on the attainment of such mile-  
22           stones.

23           “(C) LIMITATION ON TOTAL PAYMENTS TO  
24           EMPLOYMENT NETWORK.—The payment sched-  
25           ule of the outcome milestone payment system

1 shall be designed so that the total of the pay-  
2 ments to the employment network with respect  
3 to each beneficiary is less than, on a net  
4 present value basis (using an interest rate de-  
5 termined by the Commissioner that appro-  
6 priately reflects the cost of funds faced by pro-  
7 viders), the total amount to which payments to  
8 the employment network with respect to the  
9 beneficiary would be limited if the employment  
10 network were paid under the outcome payment  
11 system.

12 “(4) DEFINITIONS.—For purposes of this sub-  
13 section—

14 “(A) PAYMENT CALCULATION BASE.—The  
15 term ‘payment calculation base’ means, for any  
16 calendar year—

17 “(i) in connection with a title II dis-  
18 ability beneficiary, the average disability  
19 insurance benefit payable under section  
20 223 for all beneficiaries for months during  
21 the preceding calendar year, and

22 “(ii) in connection with a title XVI  
23 disability beneficiary (who is not concu-  
24 rrently a title II disability beneficiary), the  
25 average payment of supplemental security

1 income benefits based on disability payable  
2 under title XVI (excluding State sup-  
3 plementation) to all beneficiaries having  
4 attained 18 years of age for months during  
5 the preceding calendar year.

6 “(B) OUTCOME PAYMENT PERIOD.—The  
7 term ‘outcome payment period’ means, in con-  
8 nection with an individual who is a disabled  
9 beneficiary, a period—

10 “(i) beginning with the first month—

11 “(I) for which benefits are not  
12 payable to such individual by reason  
13 of engagement in substantial gainful  
14 activity, and

15 “(II) which ends after such bene-  
16 ficiary has assigned a ticket to work  
17 and self-sufficiency to an employment  
18 network, and

19 “(ii) ending with the 60th month  
20 (consecutive or otherwise) following the  
21 first month for which benefits are not pay-  
22 able to such individual by reason of en-  
23 gagement in work activity.

24 “(5) PERIODIC REVIEW AND ALTERATIONS OF  
25 PRESCRIBED SCHEDULES.—

1           “(A) PERCENTAGES AND PERIODS.—The  
2           Commissioner of Social Security shall periodi-  
3           cally review the percentages specified in para-  
4           graphs (2)(C) and (3)(C) and the period of  
5           time specified in paragraph (4)(B) to determine  
6           whether such percentages and such period pro-  
7           vide an adequate incentive for employment net-  
8           works to assist beneficiaries to enter the work-  
9           force, while providing for appropriate econo-  
10          mies. The Commissioner may alter any of such  
11          percentages or such period of time to the extent  
12          that the Commissioner determines, on the basis  
13          of the Commissioner’s review under this para-  
14          graph, that such an alteration would better pro-  
15          vide the incentive and economies described in  
16          the preceding sentence.

17          “(B) NUMBER AND AMOUNT OF MILE-  
18          STONE PAYMENTS.—The Commissioner shall  
19          periodically review the number and amounts of  
20          milestone payments initially established by the  
21          Commissioner pursuant to this section to deter-  
22          mine whether to allow an adequate incentive for  
23          employment networks to assist beneficiaries to  
24          enter the workforce, taking into account infor-  
25          mation provided to the Commissioner by pro-

1           gram managers, the Ticket to Work and Self-  
2           Sufficiency Advisory Panel, and other reliable  
3           sources. The Commissioner may from time to  
4           time alter the number and amounts of mile-  
5           stone payments initially established by the  
6           Commissioner pursuant to this section to the  
7           extent that the Commissioner determines that  
8           such an alteration would allow an adequate in-  
9           centive for employment networks to assist bene-  
10          ficiaries to enter the workforce. Such alteration  
11          shall be based on information provided to the  
12          Commissioner by program managers, the Ticket  
13          to Work and Self-Sufficiency Advisory Panel, or  
14          other reliable sources.

15          “(i) AUTHORIZATIONS.—

16               “(1) TITLE II DISABILITY BENEFICIARIES.—

17          There are authorized to be transferred from the  
18          Federal Old-Age and Survivors Insurance Trust  
19          Fund and the Federal Disability Insurance Trust  
20          Fund each fiscal year such sums as may be nec-  
21          essary to carry out the provisions of this section  
22          with respect to title II disability beneficiaries. Money  
23          paid from the Trust Funds under this section with  
24          respect to title II disability beneficiaries who are en-  
25          titled to benefits under section 223 or who are enti-



1 tled to benefits under section 202(d) on the basis of  
2 the wages and self-employment income of such bene-  
3 ficiaries, shall be charged to the Federal Disability  
4 Insurance Trust Fund, and all other money paid  
5 from the Trust Funds under this section shall be  
6 charged to the Federal Old-Age and Survivors Insur-  
7 ance Trust Fund. The Commissioner of Social Secu-  
8 rity shall determine according to such methods and  
9 procedures as shall be prescribed under this sec-  
10 tion—

11 “(A) the total amount to be paid to pro-  
12 gram managers and employment networks  
13 under this section, and

14 “(B) subject to the provisions of the pre-  
15 ceding sentence, the amount which should be  
16 charged to each of the Trust Funds.

17 “(2) TITLE XVI DISABILITY BENEFICIARIES.—  
18 Amounts authorized to be appropriated to the Social  
19 Security Administration under section 1601 (as in  
20 effect pursuant to the amendments made by section  
21 301 of the Social Security Amendments of 1972)  
22 shall include amounts necessary to carry out the  
23 provisions of this section with respect to title XVI  
24 disability beneficiaries.

25 “(j) DEFINITIONS.—For purposes of this section—

1           “(1) DISABLED BENEFICIARY.—The term ‘dis-  
2           abled beneficiary’ means a title II disability bene-  
3           ficiary or a title XVI disability beneficiary.

4           “(2) TITLE II DISABILITY BENEFICIARY.—The  
5           term ‘title II disability beneficiary’ means an individ-  
6           ual entitled to disability insurance benefits under  
7           section 223 or to monthly insurance benefits under  
8           section 202 based on such individual’s disability (as  
9           defined in section 223(d)). An individual is a title II  
10          disability beneficiary for each month for which such  
11          individual is entitled to such benefits.

12          “(3) TITLE XVI DISABILITY BENEFICIARY.—  
13          The term ‘title XVI disability beneficiary’ means an  
14          individual eligible for supplemental security income  
15          benefits under title XVI on the basis of blindness  
16          (within the meaning of section 1614(a)(2)) or dis-  
17          ability (within the meaning of section 1614(a)(3)).  
18          An individual is a title XVI disability beneficiary for  
19          each month for which such individual is eligible for  
20          such benefits.

21          “(k) REGULATIONS.—The Commissioner of Social  
22          Security shall prescribe such regulations as are necessary  
23          to carry out the provisions of this section.”.

24          (b) CONFORMING AMENDMENTS.—

25                 (1) AMENDMENTS TO TITLE II.—

1 (A) Section 222(a) of such Act (42 U.S.C.  
2 422(a)) is repealed.

3 (B) Section 222(b) of such Act is repealed.

4 (C) Section 225(b)(1) of such Act (42  
5 U.S.C. 425(b)(1)) is amended by striking “a  
6 program of vocational rehabilitation services”  
7 and inserting “a program consisting of the  
8 Ticket to Work and Self-Sufficiency Program  
9 under section 1147 or another program of voca-  
10 tional rehabilitation services, employment serv-  
11 ices, or other support services”.

12 (2) AMENDMENTS TO TITLE XVI.—

13 (A) Section 1615(a) of such Act (42  
14 U.S.C. 1382d(a)) is amended to read as follows:

15 “SEC. 1615. (a) In the case of any blind or disabled  
16 individual who—

17 “(1) has not attained age 16, and

18 “(2) with respect to whom benefits are paid  
19 under this title,

20 the Commissioner of Social Security shall make provision  
21 for referral of such individual to the appropriate State  
22 agency administering the State program under title V.”.

23 (B) Section 1615(c) of such Act is re-  
24 pealed.

1 (c) EFFECTIVE DATE.—Subject to subsection (d),  
2 the amendments made by subsections (a) and (b) shall  
3 take effect with the first month following one year after  
4 the date of the enactment of this Act.

5 (d) GRADUATED IMPLEMENTATION OF PROGRAM.—

6 (1) IN GENERAL.—Not later than 360 days  
7 after the date of the enactment of this Act, the  
8 Commissioner of Social Security shall commence im-  
9 plementation of the amendments made by this sec-  
10 tion (other than paragraphs (1)(B) and (2)(B) of  
11 subsection (b)) in graduated phases at phase-in sites  
12 selected by the Commissioner. Such phase-in sites  
13 shall be selected so as to ensure, prior to full imple-  
14 mentation of the Ticket to Work and Self-Suffi-  
15 ciency Program, the development and refinement of  
16 referral processes, payment systems, computer link-  
17 ages, management information systems, and admin-  
18 istrative processes necessary to provide for full im-  
19 plementation of such amendments.

20 (2) REQUIREMENTS.—Implementation of the  
21 Program at each phase-in site shall be carried out  
22 on a wide enough scale to permit a thorough evalua-  
23 tion of the alternative methods under consideration,  
24 so as to ensure that the most efficacious methods

1 are determined and in place for full implementation  
2 of the Program on a timely basis.

3 (3) FULL IMPLEMENTATION.—The Commis-  
4 sioner shall ensure that the Program is fully imple-  
5 mented as soon as practicable on or after the effec-  
6 tive date specified in subsection (c) but not later  
7 than six years after such date.

8 (4) ONGOING EVALUATION OF PROGRAM.—

9 (A) IN GENERAL.—The Commissioner  
10 shall design and conduct a series of evaluations  
11 to assess the cost-effectiveness of activities car-  
12 ried out under this section and the amendments  
13 made thereby, as well as the effects of this sec-  
14 tion and the amendments made thereby on  
15 work outcomes for beneficiaries receiving tickets  
16 to work and self-sufficiency under the Program.

17 (B) METHODOLOGY.—

18 (i) DESIGN AND IMPLEMENTATION.—  
19 The Commissioner shall design the series  
20 of evaluations after receiving relevant ad-  
21 vice from experts in the fields of disability,  
22 vocational rehabilitation, and program  
23 evaluation. In designing and carrying out  
24 such evaluations, the Commissioner shall  
25 consult with the Comptroller General of

1 the United States and other agencies of  
2 the Federal Government and with private  
3 organizations with appropriate expertise.  
4 Before provision of services begins under  
5 any phase of Program implementation, the  
6 Commissioner shall ensure that plans for  
7 such evaluations and data collection meth-  
8 ods are in place and ready for implementa-  
9 tion.

10 (ii) SPECIFIC MATTERS TO BE AD-  
11 DRESSED.—Each such evaluation shall ad-  
12 dress (but is not limited to):

13 (I) the annual cost (including net  
14 cost) of the Program and the annual  
15 cost (including net cost) that would  
16 have been incurred in the absence of  
17 the Program;

18 (II) the determinants of return to  
19 work, including the characteristics of  
20 beneficiaries in receipt of tickets  
21 under the Program;

22 (III) the types of employment  
23 services, vocational rehabilitation serv-  
24 ices, and other support services fur-  
25 nished to beneficiaries in receipt of

1 tickets under the Program who return  
2 to work and to those who do not re-  
3 turn to work;

4 (IV) the duration of employment  
5 services, vocational rehabilitation serv-  
6 ices, and other support services fur-  
7 nished to beneficiaries in receipt of  
8 tickets under the Program who return  
9 to work and the duration of such serv-  
10 ices furnished to those who do not re-  
11 turn to work and the cost to employ-  
12 ment networks of furnishing such  
13 services;

14 (V) the employment outcomes,  
15 including wages, occupations, benefits,  
16 and hours worked, of beneficiaries  
17 who return to work after receiving  
18 tickets under the Program and those  
19 who return to work without receiving  
20 such tickets;

21 (VI) the characteristics of provid-  
22 ers whose services are provided within  
23 an employment network under the  
24 Program;

1 (VII) the extent (if any) to which  
2 employment networks display a great-  
3 er willingness to provide services to  
4 disabled beneficiaries;

5 (VIII) the characteristics (includ-  
6 ing employment outcomes) of those  
7 beneficiaries who receive services  
8 under the outcome payment system  
9 and of those beneficiaries who receive  
10 services under the outcome-milestone  
11 payment system; and

12 (IX) measures of satisfaction  
13 among beneficiaries in receipt of tick-  
14 ets under the Program.

15 (C) PERIODIC EVALUATION REPORTS.—

16 Following the close of the third and fifth fiscal  
17 years ending after the effective date under sub-  
18 section (c), and prior to the close of the seventh  
19 fiscal year ending after such date, the Commis-  
20 sioner shall transmit to the Committee on Ways  
21 and Means of the House of Representatives and  
22 the Committee on Finance of the Senate a re-  
23 port containing the Commissioner's evaluation  
24 of the progress of activities conducted under the  
25 provisions of this section and the amendments



1 made thereby. Each such report shall set forth  
2 the Commissioner's evaluation of the extent to  
3 which the Program has been successful and the  
4 Commissioner's conclusions on whether or how  
5 the Program should be modified. Each such re-  
6 port shall include such data, findings, materials,  
7 and recommendations as the Commissioner may  
8 consider appropriate.

9 (e) THE TICKET TO WORK AND SELF-SUFFICIENCY  
10 ADVISORY PANEL.—

11 (1) ESTABLISHMENT.—There is established in  
12 the Social Security Administration a panel to be  
13 known as the "Ticket to Work and Self-Sufficiency  
14 Advisory Panel" (in this subsection referred to as  
15 the "Panel").

16 (2) DUTIES OF PANEL.—It shall be the duty of  
17 the Panel to—

18 (A) advise the Commissioner of Social Se-  
19 curity on establishing phase-in sites for the  
20 Ticket to Work and Self-Sufficiency Program  
21 and on fully implementing the Program there-  
22 after,

23 (B) advise the Commissioner with respect  
24 to the refinement of access of disabled bene-  
25 ficiaries to employment networks, payment sys-

1           tems, and management information systems  
2           and advise the Commissioner whether such  
3           measures are being taken to the extent nec-  
4           essary to ensure the success of the Program,

5           (C) advise the Commissioner regarding the  
6           most effective designs for research and dem-  
7           onstration projects associated with the Program  
8           or conducted pursuant to subsection (h), and

9           (D) furnish progress reports on the Pro-  
10          gram to the President and each House of the  
11          Congress.

12          (3) MEMBERSHIP.—

13           (A) NUMBER AND APPOINTMENT.—The  
14          Panel shall be composed of 6 members as fol-  
15          lows:

16                   (i) 1 member appointed by the Chair-  
17                   man of the Committee on Ways and Means  
18                   of the House of Representatives;

19                   (ii) 1 member appointed by the rank-  
20                   ing minority member of the Committee on  
21                   Ways and Means of the House of Rep-  
22                   resentatives;

23                   (iii) 1 member appointed by the  
24                   Chairman of the Committee on Finance of  
25                   the Senate;

1 (iv) 1 member appointed by the rank-  
2 ing minority member of the Committee on  
3 Finance of the Senate; and

4 (v) 2 members appointed by the Presi-  
5 dent, not more than 1 of whom may be of  
6 the same political party.

7 (B) REPRESENTATION.—Of the members  
8 appointed under subparagraph (A)—

9 (i) at least one shall represent the in-  
10 terests of recipients of employment serv-  
11 ices, vocational rehabilitation services, and  
12 other support services,

13 (ii) at least one shall represent the in-  
14 terests of providers of employment serv-  
15 ices, vocational rehabilitation services, and  
16 other support services, and

17 (iii) at least one shall represent the  
18 interests of private employers.

19 (C) TERMS.—

20 (i) IN GENERAL.—Each member shall  
21 be appointed for a term of 4 years (or, if  
22 less, for the remaining life of the Panel),  
23 except as provided in clauses (ii) and (iii).

24 (ii) TERMS OF INITIAL AP-  
25 POINTEES.—As designated by the Presi-

1 dent at the time of appointment, of the  
2 members first appointed—

3 (I) 3 of the members appointed  
4 under subparagraph (A) shall be ap-  
5 pointed for a term of 2 years, and

6 (II) 3 of the members appointed  
7 under subparagraph (A) shall be ap-  
8 pointed for a term of 4 years.

9 (iii) VACANCIES.—Any member ap-  
10 pointed to fill a vacancy occurring before  
11 the expiration of the term for which the  
12 member's predecessor was appointed shall  
13 be appointed only for the remainder of that  
14 term. A member may serve after the expi-  
15 ration of that member's term until a suc-  
16 cessor has taken office. A vacancy in the  
17 Panel shall be filled in the manner in  
18 which the original appointment was made.

19 (D) BASIC PAY.—Members shall each be  
20 paid at a rate equal to the daily equivalent of  
21 the rate of basic pay for level 4 of the Senior  
22 Executive Service, as in effect from time to  
23 time under section 5382 of title 5, United  
24 States Code, for each day (including travel

1 time) during which they are engaged in the ac-  
2 tual performance of duties vested in the Panel.

3 (E) TRAVEL EXPENSES.—Each member  
4 shall receive travel expenses, including per diem  
5 in lieu of subsistence, in accordance with sec-  
6 tions 5702 and 5703 of title 5, United States  
7 Code.

8 (F) QUORUM.—4 members of the Panel  
9 shall constitute a quorum but a lesser number  
10 may hold hearings.

11 (G) CHAIRPERSON.—The Chairperson of  
12 the Panel shall be designated by the President.  
13 The term of office of the Chairperson shall be  
14 4 years.

15 (H) MEETINGS.—The Panel shall meet at  
16 least quarterly and at other times at the call of  
17 the Chairperson or a majority of its members.

18 (4) DIRECTOR AND STAFF OF PANEL; EXPERTS  
19 AND CONSULTANTS.—

20 (A) DIRECTOR.—The Panel shall have a  
21 Director who shall be appointed by the Panel.  
22 The Director shall be paid at a rate not to ex-  
23 ceed the maximum rate of pay payable for GS-  
24 15 of the General Schedule.

1 (B) STAFF.—Subject to rules prescribed  
2 by the Panel, the Director may appoint and fix  
3 the pay of additional personnel as the Director  
4 considers appropriate.

5 (C) EXPERTS AND CONSULTANTS.—Sub-  
6 ject to rules prescribed by the Panel, the Direc-  
7 tor may procure temporary and intermittent  
8 services under section 3109(b) of title 5, United  
9 States Code.

10 (D) STAFF OF FEDERAL AGENCIES.—  
11 Upon request of the Panel, the head of any  
12 Federal department or agency may detail, on a  
13 reimbursable basis, any of the personnel of that  
14 department or agency to the Panel to assist it  
15 in carrying out its duties under this Act.

16 (5) POWERS OF PANEL.—

17 (A) HEARINGS AND SESSIONS.—The Panel  
18 may, for the purpose of carrying out its duties  
19 under this subsection, hold such hearings, sit  
20 and act at such times and places, and take such  
21 testimony and evidence as the Panel considers  
22 appropriate.

23 (B) POWERS OF MEMBERS AND AGENTS.—  
24 Any member or agent of the Panel may, if au-

1           thorized by the Panel, take any action which  
2           the Panel is authorized to take by this section.

3           (C) **MAILS.**—The Panel may use the  
4           United States mails in the same manner and  
5           under the same conditions as other departments  
6           and agencies of the United States.

7           (D) **ADMINISTRATIVE SUPPORT SERV-**  
8           **ICES.**—Upon the request of the Panel, the Ad-  
9           ministrators of General Services shall provide to  
10          the Panel, on a reimbursable basis, the admin-  
11          istrative support services necessary for the  
12          Panel to carry out its duties under this sub-  
13          section.

14          (6) **REPORTS.**—

15           (A) **INTERIM REPORTS.**—The Panel shall  
16           submit to the President and the Congress in-  
17           terim reports at least annually.

18           (B) **FINAL REPORT.**—The Panel shall  
19           transmit a final report to the President and the  
20           Congress not later than eight years after the  
21           date of the enactment of this Act. The final re-  
22           port shall contain a detailed statement of the  
23           findings and conclusions of the Panel, together  
24           with its recommendations for legislation and ad-

1           ministrative actions which the Panel considers  
2           appropriate.

3           (7) TERMINATION.—The Panel shall terminate  
4           30 days after the date of the submission of its final  
5           report under paragraph (6)(B).

6           (8) AUTHORIZATION OF APPROPRIATIONS.—  
7           There are authorized to be appropriated from the  
8           Federal Old-Age and Survivors Insurance Trust  
9           Fund, the Federal Disability Insurance Trust Fund,  
10          and the general fund of the Treasury, as appro-  
11          priate, such sums as are necessary to carry out this  
12          subsection.

13          (f) SPECIFIC REGULATIONS REQUIRED.—

14           (1) IN GENERAL.—The Commissioner of Social  
15           Security shall prescribe such regulations as are nec-  
16           essary to implement the amendments made by this  
17           section.

18           (2) SPECIFIC MATTERS TO BE INCLUDED IN  
19           REGULATIONS.—The matters which shall be ad-  
20           dressed in such regulations shall include (but are not  
21           limited to)—

22           (A) the form and manner in which tickets  
23           to work and self-sufficiency may be distributed  
24           to existing beneficiaries pursuant to section  
25           1147(b)(1) of such Act;



1           (B) the format and wording of such tick-  
2           ets, which shall incorporate by reference any  
3           contractual terms governing service by employ-  
4           ment networks under the Program;

5           (C) the form and manner in which State  
6           agencies may elect participation in the Ticket to  
7           Work and Self-Sufficiency Program (and revoke  
8           such an election) pursuant to section  
9           1147(c)(1) of such Act and provision for peri-  
10          odic opportunities for exercising such elections  
11          (and revocations);

12          (D) the status of State agencies under sec-  
13          tion 1147(c)(2) at the time that State agencies  
14          exercise elections (and revocations) under such  
15          section 1147(c)(1);

16          (E) the terms of agreements to be entered  
17          into with program managers pursuant to sec-  
18          tion 1147(d) of such Act, including (but not  
19          limited to)—

20               (i) the terms by which program man-  
21               agers are precluded from direct participa-  
22               tion in the delivery of services pursuant to  
23               section 1147(d)(3) of such Act,

24               (ii) standards which must be met by  
25               quality assurance measures referred to in

1 paragraph (6) of section 1147(d) and  
2 methods of recruitment of employment net-  
3 works utilized pursuant to paragraph (2)  
4 of section 1147(e), and

5 (iii) the format under which dispute  
6 resolution will operate under section  
7 1147(d)(7).

8 (F) the terms of agreements to be entered  
9 into with employment networks pursuant to sec-  
10 tion 1147(d)(4) of such Act, including (but not  
11 limited to)—

12 (i) the manner in which service areas  
13 are specified pursuant to section  
14 1147(f)(2)(A) of such Act,

15 (ii) the general selection criteria and  
16 the specific selection criteria which are ap-  
17 plicable to employment networks under  
18 section 1147(f)(2)(B) of such Act in select-  
19 ing service providers,

20 (iii) specific requirements relating to  
21 annual financial reporting by employment  
22 networks pursuant to section 1147(f)(3) of  
23 such Act, and

24 (iv) the national model to which peri-  
25 odic outcomes reporting by employment

1 networks must conform under section  
2 1147(f)(4) of such Act;

3 (G) standards which must be met by indi-  
4 vidual employment plans pursuant to section  
5 1147(g) of such Act;

6 (H) standards which must be met by pay-  
7 ment systems required under section 1147(h) of  
8 such Act, including (but not limited to)—

9 (i) the form and manner in which  
10 elections by employment networks of pay-  
11 ment systems are to be exercised pursuant  
12 to section 1147(h)(1)(A),

13 (ii) the terms which must be met by  
14 an outcome payment system under section  
15 1147(h)(2);

16 (iii) the terms which must be met by  
17 an outcome-milestone payment system  
18 under section 1147(h)(3);

19 (iv) any revision of the percentage  
20 specified in paragraph (2)(C) of section  
21 1147(h) of such Act or the period of time  
22 specified in paragraph (4)(B) of such sec-  
23 tion 1147(h); and

24 (v) annual oversight procedures for  
25 such systems; and

1 (I) procedures for effective oversight of the  
2 Program by the Commissioner of Social Secu-  
3 rity, including periodic reviews and reporting  
4 requirements.

5 (g) WORK INCENTIVE SPECIALISTS.—The Commis-  
6 sioner shall establish a corps of trained, accessible, and  
7 responsive work incentive specialists to specialize in title  
8 II and title XVI disability work incentives for the purpose  
9 of disseminating accurate information to disabled bene-  
10 ficiaries (as defined in section 1147(j)(1) of the Social Se-  
11 curity Act as amended by this Act) with respect to inquir-  
12 ies and issues relating to work incentives.

13 (h) DEMONSTRATION PROJECTS PROVIDING FOR RE-  
14 Ductions IN DISABILITY INSURANCE BENEFITS BASED  
15 ON EARNINGS. —

16 (1) AUTHORITY.—The Commissioner shall con-  
17 duct demonstration projects for the purpose of eval-  
18 uating, through the collection of data, a program for  
19 title II disability beneficiaries (as defined in section  
20 1147(j)(2) of the Social Security Act, as amended by  
21 this Act) under which each \$1 of benefits payable  
22 under section 223, or under section 202 based on  
23 the beneficiary's disability, is reduced for each \$2 of  
24 such beneficiary's earnings that is above a level to  
25 be determined by the Commissioner. Such projects

1 shall be conducted at a number of localities which  
2 the Commissioner shall determine is sufficient to  
3 adequately evaluate the appropriateness of national  
4 implementation of such a program. Such projects  
5 shall identify reductions in Federal expenditures  
6 that may result from the permanent implementation  
7 of such a program.

8 (2) SCOPE AND SCALE AND MATTERS TO BE  
9 DETERMINED.—

10 (A) IN GENERAL.—The demonstration  
11 projects developed under paragraph (1) shall be  
12 of sufficient duration, shall be of sufficient  
13 scope, and shall be carried out on a wide  
14 enough scale to permit a thorough evaluation of  
15 the project to determine—

16 (i) the effects, if any, of induced entry  
17 and reduced exit,

18 (ii) the extent, if any, to which the  
19 project being tested is affected by whether  
20 it is in operation in a locality within an  
21 area under the administration of the Tick-  
22 et to Work and Self-Sufficiency Program,  
23 and

1 (iii) the savings that accrue to the  
2 Trust Funds under the project being test-  
3 ed.

4 The Commissioner shall take into account ad-  
5 vice provided by the Ticket to Work and Self-  
6 Sufficiency Advisory Panel pursuant to sub-  
7 section (e)(2)(C).

8 (B) ADDITIONAL MATTERS.—The Commis-  
9 sioner shall also determine with respect to each  
10 project—

11 (i) the annual cost (including net  
12 cost) of the project and the annual cost  
13 (including net cost) that would have been  
14 incurred in the absence of the project,

15 (ii) the determinants of return to  
16 work, including the characteristics of the  
17 beneficiaries who participate in the project,  
18 and

19 (iii) the employment outcomes, includ-  
20 ing wages, occupations, benefits, and hours  
21 worked, of beneficiaries who return to work  
22 as a result of participation in the project.

23 (3) WAIVERS.—The Commissioner may waive  
24 compliance with the benefit requirements of title II  
25 of the Social Security Act, and the Secretary of

1 Health and Human Services may waive compliance  
2 with the benefit requirements of title XVIII of such  
3 Act, in so far as is necessary for a thorough evalua-  
4 tion of the alternative methods under consideration.  
5 No such experiment or project shall be actually  
6 placed in operation unless at least 90 days prior  
7 thereto a written report, prepared for purposes of  
8 notification and information only and containing a  
9 full and complete description thereof, has been  
10 transmitted by the Commissioner to the Committee  
11 on Ways and Means of the House of Representatives  
12 and to the Committee on Finance of the Senate.  
13 Periodic reports on the progress of such experiments  
14 and projects shall be submitted by the Commissioner  
15 to such committees. When appropriate, such reports  
16 shall include detailed recommendations for changes  
17 in administration or law, or both, to carry out the  
18 objectives stated in paragraph (1).

19 (4) INTERIM REPORTS.—On or before June 9  
20 in 2000 and each of the succeeding years thereafter,  
21 the Commissioner shall submit to the Congress an  
22 interim report on the progress of the experiments  
23 and demonstration projects carried out under this  
24 subsection together with any related data and mate-







1 1986 (relating to nonrefundable personal credits) is  
2 amended by inserting after section 25A the following new  
3 section:

4 **“SEC. 25B. IMPAIRMENT-RELATED WORK EXPENSES OF**  
5 **HANDICAPPED INDIVIDUALS.**

6 “(a) ALLOWANCE OF CREDIT.—In the case of a  
7 handicapped individual, there shall be allowed as a credit  
8 against the tax imposed by this chapter for the taxable  
9 year an amount equal to 50 percent of the impairment-  
10 related work expenses which are paid or incurred by the  
11 taxpayer during the taxable year.

12 “(b) MAXIMUM CREDIT.—The credit allowed by sub-  
13 section (a) with respect to the expenses of each handi-  
14 capped individual shall not exceed \$5,000 for the taxable  
15 year.

16 “(c) DEFINITIONS.—For purposes of this section—

17 “(1) HANDICAPPED INDIVIDUAL.—The term  
18 ‘handicapped individual’ has the meaning given such  
19 term by section 190(b)(3).

20 “(2) IMPAIRMENT-RELATED WORK EX-  
21 PENSES.—The term ‘impairment-related work ex-  
22 penses’ means expenses—

23 “(A) of a handicapped individual for at-  
24 tendant care services at the individual’s place of  
25 employment and other expenses in connection

1 with such place of employment which are nec-  
2 essary for such individual to be able to work,  
3 and

4 “(B) with respect to which a deduction is  
5 allowable under section 162 (determined with-  
6 out regard to this section).

7 “(d) SPECIAL RULES.—

8 “(1) DENIAL OF DOUBLE BENEFIT.—The  
9 amount of impairment-related work expenses which  
10 is allowable as a deduction under section 162 (deter-  
11 mined without regard to this paragraph) for the tax-  
12 able year shall be reduced by the amount of credit  
13 allowed under this section for such year.

14 “(2) ELECTION TO HAVE SECTION NOT  
15 APPLY.—No credit shall be allowed under subsection  
16 (a) for the taxable year if the taxpayer elects to not  
17 have this section apply for such year.”

18 (b) CLERICAL AMENDMENT.—The table of sections  
19 for such subpart A is amended by inserting after the item  
20 relating to section 25A the following new item:

“Sec. 25B. Impairment-related work expenses of handicapped in-  
dividuals.”

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply to taxable years beginning after  
23 December 31, 1997.

○



TICKET TO WORK AND SELF-SUFFICIENCY ACT OF 1998

MAY 18, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 3433]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Ticket to Work and Self-Sufficiency Act of 1998”.

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

- Sec. 1. Short title and table of contents.  
 Sec. 2. The Ticket to Work and Self-Sufficiency Program.  
 Sec. 3. Extending medicare coverage for OASDI disability benefit recipients who are using tickets to work and self-sufficiency.  
 Sec. 4. Technical amendments relating to drug addicts and alcoholics.  
 Sec. 5. Extension of disability insurance program demonstration project authority.  
 Sec. 6. Perfecting amendments related to withholding from social security benefits.  
 Sec. 7. Treatment of prisoners.  
 Sec. 8. Revocation by members of the clergy of exemption from social security coverage.  
 Sec. 9. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.

**SEC. 2. THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.**

(a) **IN GENERAL.**—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

**“THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM**

“SEC. 1147. (a) **IN GENERAL.**—The Commissioner of Social Security shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary’s choice and which is willing to provide such services to such beneficiary.

“(b) **TICKET SYSTEM.**—

“(1) **DISTRIBUTION OF TICKETS.**—The Commissioner of Social Security may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

“(2) **ASSIGNMENT OF TICKETS.**—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary’s choice which is serving under the Program and is willing to accept the assignment.

“(3) **TICKET TERMS.**—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner’s agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

"(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

"(c) STATE PARTICIPATION.—

"(1) PERIODIC ELECTIONS.—Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation act of 1973 may elect to participate in the Program (or to revoke any such election) as an employment network. The Commissioner shall provide for periodic opportunities for exercising such elections (and revocations).

"(2) TREATMENT OF STATE AGENCIES.—Any such election (or revocation) by a State agency described in paragraph (1) taking effect during any period for which an individual residing in the State is a disabled beneficiary and a client of the State agency shall not be effective with respect to such individual to the extent that such election (or revocation) would result in any change in the method of payment to the State agency with respect to the individual from the method of payment to the State agency with respect to the individual in effect immediately before such election (or revocation).

"(3) EFFECT OF PARTICIPATION BY STATE AGENCY.—

"(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in paragraph (1) elects under paragraph (1) to participate in the Program—

"(i) the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, and

"(ii) the provisions of section 222(d) and the provisions of subsections (d) and (e) of section 1615 shall not apply with respect to such State.

"(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

"(4) SPECIAL REQUIREMENTS APPLICABLE TO CROSS-REFERRAL TO CERTAIN STATE AGENCIES.—

"(A) IN GENERAL.—In any case in which an employment network has been assigned a ticket to work and self-sufficiency by a disabled beneficiary, no State agency shall be deemed required, under this section, title I of the Rehabilitation Act of 1973, or a State plan approved under such title, to accept any referral of such disabled beneficiary from such employment network unless such employment network and such State agency have entered into a written agreement that meets the requirements of subparagraph (B).

"(B) TERMS OF AGREEMENT.—An agreement required by subparagraph (A) shall specify, in accordance with regulations prescribed pursuant to subparagraph (C)—

"(i) the extent (if any) to which the employment network holding the ticket will provide to the State agency—

"(I) reimbursement for costs incurred in providing services described in subparagraph (A) to the disabled beneficiary, and

"(II) other amounts from payments made by the Commissioner to the employment network pursuant to subsection (h), and

"(ii) any other conditions that may be required by such regulations.

"(C) REGULATIONS.—The Commissioner of Social Security and the Secretary of Education shall jointly prescribe regulations specifying the terms of agreements required by subparagraph (A) and otherwise necessary to carry out the provisions of this paragraph.

"(D) PENALTY.—No payment may be made to an employment network pursuant to subsection (h) in connection with services provided to any disabled beneficiary if such employment network makes referrals described in subparagraph (A) in violation of the terms of the contract required under subparagraph (A) or without having entered into such a contract.

"(d) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—

"(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner of Social Security shall enter into agreements with one or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager

shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

"(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include (but are not limited to)—

"(A) measures for ease of access by beneficiaries to services, and

"(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

"(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

"(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement, and

"(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

"(4) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

"(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

"(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall take into account the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure the performance of periodic surveys of beneficiaries receiving services under the Program designed to measure customer service satisfaction.

"(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks and between program managers and employment networks. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

"(e) PROGRAM MANAGERS.—

"(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

"(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

"(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks for good cause, as determined by the Commissioner, without being deemed to have rejected services under the Program. The



program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible format.

"(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

"(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Such services may include case management, benefits counseling, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are coordinated.

"(f) EMPLOYMENT NETWORKS.—

"(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, which assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b). No employment network may serve under the Program unless it demonstrates to the Commissioner substantial expertise and experience in the field of employment services, vocational rehabilitation services, or other support services for individuals with disabilities and provides an array of such services. An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

"(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

"(A) serve prescribed service areas,

"(B) meet, and maintain compliance with, both general selection criteria (such as professional and governmental certification and educational credentials) and specific selection criteria (such as the extent of work experience by the provider with specific populations), and

"(C) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans meeting the requirements of subsection (g).

"(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

"(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network pertaining to the beneficiary. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

"(g) INDIVIDUAL WORK PLANS.—

"(1) IN GENERAL.—Each employment network shall—

"(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans as defined by the Commissioner, and

“(B) develop and implement each such individual work plan, in the case of each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

A beneficiary’s individual work plan shall take effect upon approval by the beneficiary.

“(2) VOCATIONAL EVALUATION.—In devising the work plan, the employment network shall undertake a vocational evaluation with respect to the beneficiary. Each vocational evaluation shall set forth in writing such elements and shall be in such format as the Commissioner shall prescribe. The Commissioner may provide for waiver by the beneficiary of such a vocational evaluation, subject to regulations which shall be prescribed by the Commissioner providing for the permissible timing of, and the circumstances permitting, such a waiver.

“(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

“(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

“(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

“(B) METHOD OF PAYMENT TO EMPLOYMENT NETWORKS.—Any such election by an employment network taking effect during any period for which a disabled beneficiary is receiving services from such employment network shall not be effective with respect to such beneficiary to the extent that such election would result in any change in the method of payment to the employment network with respect to services provided to such beneficiary from the method of payment to the employment network with respect to services provided to such beneficiary as of immediately before such election.

“(2) OUTCOME PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual’s outcome payment period, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual.

“(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

“(i) the payment for each of the 60 months during the outcome payment period for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs, and

“(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

“(3) OUTCOME-MILESTONE PAYMENT SYSTEM.—

“(A) IN GENERAL.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

“(B) EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.—The outcome-milestone payment system shall provide for one or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, which are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure which provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

“(C) LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using

an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

**(4) DEFINITIONS.—**For purposes of this subsection—

**(A) PAYMENT CALCULATION BASE.—**The term ‘payment calculation base’ means, for any calendar year—

“(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year, and

“(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained at least 18 years of age.

**(B) OUTCOME PAYMENT PERIOD.—**The term ‘outcome payment period’ means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

“(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual by reason of engagement in work activity, and

“(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in work activity.

**(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—**

**(A) PERCENTAGES AND PERIODS.—**The Commissioner of Social Security shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner’s review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

**(B) NUMBER AND AMOUNT OF MILESTONE PAYMENTS.—**The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, or other reliable sources.

**(i) SUSPENSION OF DISABILITY REVIEWS.—**During any period for which an individual is using a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.

**(j) AUTHORIZATIONS.—**

**(1) TITLE II DISABILITY BENEFICIARIES.—**There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to carry out the provisions of this section with respect to title II disability beneficiaries. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the

Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Commissioner of Social Security shall determine according to such methods and procedures as shall be prescribed under this section—

“(A) the total amount to be paid to program managers and employment networks under this section, and

“(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

“(2) TITLE XVI DISABILITY BENEFICIARIES.—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

“(k) DEFINITIONS.—For purposes of this section—

“(1) DISABLED BENEFICIARY.—The term ‘disabled beneficiary’ means a title II disability beneficiary or a title XVI disability beneficiary.

“(2) TITLE II DISABILITY BENEFICIARY.—The term ‘title II disability beneficiary’ means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

“(3) TITLE XVI DISABILITY BENEFICIARY.—The term ‘title XVI disability beneficiary’ means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

“(4) SUPPLEMENTAL SECURITY INCOME BENEFIT.—The term ‘supplemental security income benefit under title XVI’ means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

“(l) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as are necessary to carry out the provisions of this section.”

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 221(c) of such Act (42 U.S.C. 421(c)) is amended by adding at the end the following new paragraph:

“(4) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).”

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services”.

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

“SEC. 1615. (a) In the case of any blind or disabled individual who—

“(1) has not attained age 16, and

“(2) with respect to whom benefits are paid under this title, the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.”

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking “a program of vocational rehabilitation services” and inserting “a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services”.

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting “(1)” after “(c)”; and

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

“(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).”

(c) **EFFECTIVE DATE.**—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following one year after the date of the enactment of this Act.

(d) **GRADUATED IMPLEMENTATION OF PROGRAM.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) **REQUIREMENTS.**—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) **FULL IMPLEMENTATION.**—The Commissioner shall ensure that the Program is fully implemented as soon as practicable on or after the effective date specified in subsection (c) but not later than six years after such date.

(4) **ONGOING EVALUATION OF PROGRAM.**—

(A) **IN GENERAL.**—The Commissioner shall design and conduct a series of evaluations to assess the cost-effectiveness of activities carried out under this section and the amendments made thereby, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) **METHODOLOGY.**—

(i) **DESIGN AND IMPLEMENTATION.**—The Commissioner shall design the series of evaluations after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program. In designing and carrying out such evaluations, the Commissioner shall consult with the Comptroller General of the United States and other agencies of the Federal Government and with private organizations with appropriate expertise. Before provision of services begins under any phase of Program implementation, the Commissioner shall ensure that plans for such evaluations and data collection methods are in place and ready for implementation.

(ii) **SPECIFIC MATTERS TO BE ADDRESSED.**—Each such evaluation shall address (but is not limited to):

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of providers whose services are provided within an employment network under the Program;

(VII) the extent (if any) to which employment networks display a greater willingness to provide services to disabled beneficiaries;

(VIII) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome pay-

ment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(IX) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(X) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of their tickets.

(C) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

(A) IN GENERAL.—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) of the Social Security Act for prompt referrals to a State agency, and

(ii) the authority of the Commissioner under section 222(d)(2) of such Act to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals,

shall apply in such State.

(B) EXISTING AGREEMENTS.—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to services (if any) to be provided after six years after the effective date provided in subsection (c).

(e) THE TICKET TO WORK AND SELF-SUFFICIENCY ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established in the executive branch a panel to be known as the "Ticket to Work and Self-Sufficiency Advisory Panel" (in this subsection referred to as the "Panel").

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the Commissioner of Social Security on establishing phase-in sites for the Ticket to Work and Self-Sufficiency Program and on fully implementing the Program thereafter,

(B) advise the Commissioner with respect to the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program,

(C) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to subsection (h),

(D) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1147(d)(6) of the Social Security Act, and

(E) furnish progress reports on the Program to the President and each House of the Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 6 members as follows:

(i) 1 member appointed by the Chairman of the Committee on Ways and Means of the House of Representatives;

(ii) 1 member appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;

- (iii) 1 member appointed by the Chairman of the Committee on Finance of the Senate;
  - (iv) 1 member appointed by the ranking minority member of the Committee on Finance of the Senate; and
  - (v) 2 members appointed by the President, who may not be of the same political party.
- (B) REPRESENTATION.—Of the members appointed under subparagraph (A), at least 4 shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services, of whom—
- (i) at least one shall represent the interests of recipients of employment services, vocational rehabilitation services, and other support services,
  - (ii) at least one shall represent the interests of providers of employment services, vocational rehabilitation services, and other support services,
  - (iii) at least one shall represent the interests of private employers,
  - (iv) at least one shall represent the interests of employees, and
  - (v) at least one shall be an individual who is or has been a recipient of benefits under title II or title XVI based on disability.
- (C) TERMS.—
- (i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.
  - (ii) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—
    - (I) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 2 years, and
    - (II) 3 of the members appointed under subparagraph (A) shall be appointed for a term of 4 years.
  - (iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.
- (D) BASIC PAY.—Members shall each be paid at a rate equal to the daily equivalent of the rate of basic pay for level 4 of the Senior Executive Service, as in effect from time to time under section 5382 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Panel.
- (E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.
- (F) QUORUM.—4 members of the Panel shall constitute a quorum but a lesser number may hold hearings.
- (G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.
- (H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.
- (4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—
- (A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Panel. The Director shall be paid at a rate not to exceed the maximum rate of pay payable for GS-15 of the General Schedule.
  - (B) STAFF.—Subject to rules prescribed by the Panel, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.
  - (C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Panel, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.
  - (D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.
- (5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(D) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Panel, the Administrator of General Services shall provide to the Panel, on a reimbursable basis, the administrative support services necessary for the Panel to carry out its duties under this subsection.

(6) REPORTS.—

(A) INTERIM REPORTS.—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) FINAL REPORT.—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) TERMINATION.—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

(f) SPECIFIC REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.—The matters which shall be addressed in such regulations shall include (but are not limited to)—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1147(b)(1) of such Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program (and revoke such an election) pursuant to section 1147(c)(1) of such Act and provision for periodic opportunities for exercising such elections (and revocations);

(D) the status of State agencies under section 1147(c)(2) at the time that State agencies exercise elections (and revocations) under such section 1147(c)(1);

(E) the terms of agreements to be entered into with program managers pursuant to section 1147(d) of such Act, including (but not limited to)—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1147(d)(3) of such Act,

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1147(d) and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1147(e), and

(iii) the format under which dispute resolution will operate under section 1147(d)(7).

(F) the terms of agreements to be entered into with employment networks pursuant to section 1147(d)(4) of such Act, including (but not limited to)—

(i) the manner in which service areas are specified pursuant to section 1147(f)(2)(A) of such Act,

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1147(f)(2)(B) of such Act in selecting service providers,

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1147(f)(3) of such Act, and



(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1147(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1147(g) of such Act;

(H) standards which must be met by payment systems required under section 1147(h) of such Act, including (but not limited to)—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1147(h)(1)(A),

(ii) the terms which must be met by an outcome payment system under section 1147(h)(2);

(iii) the terms which must be met by an outcome-milestone payment system under section 1147(h)(3);

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1147(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1147(h); and

(v) annual oversight procedures for such systems; and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(g) **WORK INCENTIVE SPECIALISTS.**—The Commissioner shall establish a corps of trained, accessible, and responsive work incentive specialists to specialize in title II and title XVI disability work incentives for the purpose of disseminating accurate information to disabled beneficiaries (as defined in section 1147(k)(1) of the Social Security Act as amended by this Act) with respect to inquiries and issues relating to work incentives.

(h) **DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**—

(1) **AUTHORITY.**—The Commissioner shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1147(k)(2) of the Social Security Act, as amended by this Act) under which each \$1 of benefits payable under section 223, or under section 202 based on the beneficiary's disability, is reduced for each \$2 of such beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

(2) **SCOPE AND SCALE AND MATTERS TO BE DETERMINED.**—

(A) **IN GENERAL.**—The demonstration projects developed under paragraph (1) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

(i) the effects, if any, of induced entry and reduced exit,

(ii) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program, and

(iii) the savings that accrue to the Trust Funds and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Self-Sufficiency Advisory Panel pursuant to subsection (e)(2)(C).

(B) **ADDITIONAL MATTERS.**—The Commissioner shall also determine with respect to each project—

(i) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project,

(ii) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project, and

(iii) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

(3) **WAIVERS.**—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act, and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in

operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) INTERIM REPORTS.—On or before June 9 in 2000 and each of the succeeding years thereafter, the Commissioner shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials which the Commissioner may consider appropriate.

(5) FINAL REPORT.—The Commissioner shall submit to the Congress a final report with respect to all demonstration projects carried out under this section no later than one year after their completion.

(6) EXPENDITURES.—Expenditures made for demonstration projects under this subsection shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

(i) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 and other Federal laws. In such study, the Comptroller General shall specifically address the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities under the Ticket to Work and Self-Sufficiency Program.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General may determine to be appropriate.

(j) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING COORDINATION OF THE DI AND SSI PROGRAMS AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAVING CONCURRENT ENTITLEMENT.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act, as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVII and XIX of such Act.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General may determine to be appropriate.

SEC. 3. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS WHO ARE USING TICKETS TO WORK AND SELF-SUFFICIENCY.

(a) IN GENERAL.—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended—

(1) by striking “throughout all of which” and inserting “throughout the first 24 months of which”, and

(2) by inserting after “but not in excess of 24 such months” the following: “(plus 24 additional such months in the case of an individual who the Commis-

sioner determines is using a ticket to work and self-sufficiency issued under section 1147, but only for additional months that occur in the 7-year period beginning on the date of the enactment of the Ticket to Work and Self-Sufficiency Act of 1998”.

(b) REPORT.—Not later than 6 months prior to the end of the 7-year period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services and the Commissioner of Social Security shall submit in writing to each House of the Congress their recommendations for further legislative action with respect to the amendments made by subsection (a), taking into account experience derived from efforts to achieve full implementation of the Ticket to Work and Self-Sufficiency Program under section 1147 of the Social Security Act.

#### SEC. 4. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.

(a) CLARIFICATION RELATING TO THE EFFECTIVE DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 853) is amended—

(1) in subparagraph (A), by striking “by the Commissioner of Social Security” and “by the Commissioner”; and

(2) by adding at the end the following new subparagraphs:

“(D) For purposes of this paragraph, an individual’s claim, with respect to benefits under title II of the Social Security Act based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

“(i) there is pending a request for either administrative or judicial review with respect to such claim, or

“(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual’s entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) of the Social Security Act shall not apply to such redetermination.”

(b) CORRECTION TO EFFECTIVE DATE OF PROVISIONS CONCERNING REPRESENTATIVE PAYEES AND TREATMENT REFERRALS OF SOCIAL SECURITY BENEFICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5)(B) of such Act (Public Law 104-121; 110 Stat. 853) is amended to read as follows:

“(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—

“(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act, or

“(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).”

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 852 et seq.).

#### SEC. 5. 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; 94 Stat. 473), as amended by section 12101 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 282), section 10103 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2472), section 5120(f) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-282), and section 315 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103-296; 108 Stat. 1531), is further amended—

(1) in paragraph (1) of subsection (a), by adding at the end the following new sentence: “The Commissioner may expand the scope of any such demonstration project to include any group of applicants for benefits under such program with impairments which may reasonably be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to

any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.”;

(2) in paragraph (3) of subsection (a), by striking “June 10, 1996” and inserting “June 10, 2001”;

(3) in paragraph (4) of subsection (a), by inserting “and on or before October 1, 2000,” after “1995,”; and

(4) in subsection (c), by striking “October 1, 1996” and inserting “October 1, 2001”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 6. PERFECTING AMENDMENTS RELATED TO WITHHOLDING FROM SOCIAL SECURITY BENEFITS.**

(a) **INAPPLICABILITY OF ASSIGNMENT PROHIBITION.**—Section 207 of the Social Security Act (42 U.S.C. 407) is amended by adding at the end the following new subsection:

“(c) Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person’s representative payee.”.

(b) **PROPER ALLOCATION OF COSTS OF WITHHOLDING BETWEEN THE TRUST FUNDS AND THE GENERAL FUND.**—Section 201(g) of such Act (42 U.S.C. 401(g)) is amended—

(1) by inserting before the period in paragraph (1)(A)(ii) the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee”;

(2) by inserting before the period at the end of paragraph (1)(A) the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee”;

(3) in paragraph (1)(B)(i)(I), by striking “subparagraph (A),” and inserting “subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee,”;

(4) in paragraph (1)(C)(iii), by inserting before the period the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee”;

(5) in paragraph (1)(D), by inserting after “section 232” the following: “and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)”;

(6) in paragraph (4), by inserting after the first sentence the following: “The Board of Trustees of such Trust Funds shall prescribe the method of determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee.”.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall apply to benefits paid on or after the first day of the second month beginning after the month in which this Act is enacted.

**SEC. 7. TREATMENT OF PRISONERS.**

(a) **IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF TITLE II BENEFITS TO PRISONERS.**—

(1) **IN GENERAL.**—Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended—

(A) by inserting “(A)” after “(3)”;

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

“(B)(i) The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—

"(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and

"(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual's confinement in such institution begins, or \$200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).

"(iii) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.

"(iv) There is authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II). Sums so transferred shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 and excluded from budget totals in accordance with section 13301 of the Budget Enforcement Act of 1990.

"(v) The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(b) ELIMINATION OF TITLE II REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.—

(1) IN GENERAL.—Section 202(x)(1)(A) of such Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking "during" and inserting "throughout";

(B) in clause (i), by striking "an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)" and inserting "a criminal offense"; and

(C) in clause (ii)(I), by striking "an offense punishable by imprisonment for more than 1 year" and inserting "a criminal offense".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(c) CONFORMING TITLE XVI AMENDMENTS.—

(1) FIFTY PERCENT REDUCTION IN TITLE XVI PAYMENT IN CASE INVOLVING COMPARABLE TITLE II PAYMENT.—Section 1611(e)(1)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is amended—

(A) in clause (i)(II), by inserting "(subject to reduction under clause (ii))" after "\$400" and after "\$200";

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(C) by inserting after clause (i) the following new clause:

"(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B)."

(2) EXPANSION OF CATEGORIES OF INSTITUTIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in the matter preceding subclause (I) by striking “institution” and all that follows through “section 202(x)(1)(A),” and inserting “institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii),”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act in section 1611(e)(1)(I)(i) of such Act as amended by paragraph (2) shall be deemed a reference to such section 202(x)(1)(A)(ii) as amended by subsection (b)(1)(C).

(d) CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON TERM.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii)(IV), by striking the period and inserting “, or”; and

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

“(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.”

(2) CONFORMING AMENDMENT.—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking “clause (ii)” and inserting “clauses (ii) and (iii)”.

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

**SEC. 8. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.**

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s second taxable year beginning after December 31, 1998. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act), as specified in the application, either with respect to the applicant’s first taxable year beginning after December 31, 1998, or with respect to the applicant’s second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant’s Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding section 1402 (c)(4) or (c)(5) of such Code) except for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1998, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

**SEC. 9. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND XVI**

(a) **IN GENERAL.**—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking “title XVI” and inserting “title II or XVI”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

**Amend the title so as to read:**

A bill to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to work, to extend Medicare coverage for such beneficiaries, and to make additional miscellaneous amendments relating to social security.

**I. INTRODUCTION**

**A. PURPOSE AND SUMMARY**

The Ticket to Work and Self-Sufficiency Act of 1998 would provide real opportunities for those Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disabled beneficiaries who want to work.

**B. BACKGROUND AND NEED FOR LEGISLATION**

Historically, less than 1 percent of disabled beneficiaries leave the rolls because of successful rehabilitation. State Vocational Rehabilitation (VR) agencies have a limited capacity to serve all those who need services and therefore have had a negligible impact on the number of disabled beneficiaries who enter the workforce. According to the General Accounting Office, on average, State Disability Determination Services (DDSs) refer for VR services only about 8 percent of SSDI and SSI applicants awarded benefits and less than 10 percent of beneficiaries referred by DDSs are accepted as clients.

In hearings held by the Subcommittee on Social Security over the past 3 years, witnesses, including individuals with disabilities, their advocates, rehabilitation experts, and various providers of services, have repeatedly noted that, due to advances in medicine, technology, and the field of rehabilitation, many individuals with severe disabilities could work and want to work. Witnesses indicated that providing beneficiary choice in needed rehabilitation and support services and removing Social Security program barriers would facilitate beneficiaries' self-sufficiency through employment.

In addition, beneficiaries with disabilities are staying on the rolls longer than in the past because of: (1) increased life expectancy; (2) a lower average age of disability beneficiaries due to the baby boom cohort; and (3) an increase in the number of awardees with disabling mental impairments who tend to be younger and physically healthier. SSA's disability programs have experienced tremendous growth in recent years. Between 1986 and 1996, the number of working-age beneficiaries on the SSDI and SSI disability rolls increased 64 percent. During this period, cash benefits to adults and children with disabilities increased from about \$25 billion to \$61 billion annually. These facts underscore the need for initiatives designed to encourage disabled beneficiaries to obtain employment and rehabilitation services and to enter the workforce.

The Social Security disability insurance program insures workers and their families against the loss of income due to disability. Nearly 4.5 million people with disabilities who have paid into the Social Security system receive Social Security disability benefits. Another 4 million adults with disabilities receive Supplemental Security Income (SSI) payments. Americans rely on the safety net these programs provide in the event of severe illness or injury.

Given the choice, however, many disability beneficiaries would rather be working. In hearings and through personal contacts, Members of the Subcommittee on Social Security have learned about the obstacles Social Security disability beneficiaries face in attempting to work including: fear of losing health and cash benefits, little known and complex work incentives, and the "all or nothing" nature of SSDI cash benefits that can make work at low wages financially unattractive. Thus, after consultation with individuals with disabilities, advocates, rehabilitation experts, providers of services, and the Administration, the Committee has developed a proposal that is supported on a widespread bipartisan basis.

The Ticket to Work and Self-Sufficiency Act of 1998 would create a program to ease the transition of Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disabled beneficiaries into the workforce. In addition, the Subcommittee proposal contains several technical amendments to title II of the Social Security Act that have previously passed in the House and for which similar title XVI provisions were passed in last year's Balanced Budget Act. The proposal also provides a two-year period allowing members of the clergy to revoke their exemption from Social Security coverage.

### C. LEGISLATIVE HISTORY

Since 1995, the Subcommittee on Social Security has held 5 hearings, including testimony from 28 witnesses, addressing needed Social Security program changes to encourage individuals with disabilities to work. The Subcommittee held a two-part hearing on July 23 and July 24, 1997, to specifically address barriers preventing Social Security disability recipients from returning to work. The hearing included testimony from the Administration, the U.S. General Accounting Office, beneficiaries, rehabilitation experts, and providers of services.

On March 11, 1998, Mr. Bunning, on behalf of himself and Mrs. Kennelly, introduced H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998. The Subcommittee held a hearing on March 17, 1998, and received testimony in support of H.R. 3433 from individuals with disabilities, advocates for the disabled, and providers of services. The Subcommittee on Social Security ordered favorably reported to the Full Committee H.R. 3433, as amended, by a voice vote, with a quorum present on March 25, 1998.

On May 6, 1998, the Full Committee ordered favorably reported, H.R. 3433, the "Ticket to Work and Self-Sufficiency Act of 1998," as amended, by a voice vote, with a quorum present.



## II. EXPLANATION OF PROVISIONS

### A. SECTION 1. SHORT TITLE

The short title of the bill is the Ticket to Work and Self-Sufficiency Act of 1998.

### B. SECTION 2. THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

#### *Present law*

Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) disabled individuals applying for or awarded benefits shall be promptly referred to the State vocational rehabilitation (VR) agency for necessary VR services. The Commissioner of Social Security is authorized to use trust fund and general revenue monies to reimburse State VR agencies for reasonable and necessary costs of VR services when such services result in an individual performing work at the substantial gainful level (\$500 a month) for 9 months.

#### *Explanation of provision*

The proposal would create a Ticket to Work and Self-Sufficiency Program. The proposal would authorize the Commissioner of Social Security to provide SSDI and SSI disabled beneficiaries with a ticket which they may use to obtain services of their choice from an employment network (provider of services) of their choice to enable them to enter the workforce.

The bill would provide State VR agencies with the option of participating in the Program as an employment network or remaining in the current law reimbursement system. State VR agencies which elect to participate in the Program would be reimbursed under current law provisions for those beneficiaries who began receiving services prior to Program election. Services provided by State VR agencies participating in the Program would be governed by plans for VR services approved under title I of the Rehabilitation Act. State VR agencies would not be required to accept referrals from employment networks unless the agency has entered into an agreement with the employment network.

The Commissioner would contract with program managers—one or more organizations in the private or public sector with expertise and experience in the field of vocational rehabilitation or employment services—through a competitive bidding process, to help the Social Security Administration (SSA) administer the Program. Agreements with program managers would include performance standards (including measures for ease of access and measures of success). Program managers would be precluded from delivering services in their own service area. The Commissioner would select and enter into agreements with employment networks, provide periodic quality assurance reviews of employment networks, and establish a method for resolving disputes between beneficiaries and employment networks.

Program managers would recruit and recommend employment networks to the Commissioner, ensure adequate choices of services are available to beneficiaries, ensure beneficiary access to services,

and provide assurances to SSA that employment networks are complying with agreement terms. In addition, program managers will make certain that beneficiaries are allowed changes in employment networks for good cause.

Employment networks would consist of a single provider (public or private) or an association of providers combined into a single entity which assumes responsibility for the coordination and delivery of services. The employment networks would be required to demonstrate substantial expertise and experience in the field of employment services, vocational rehabilitation services, or other support services for individuals with disabilities and would provide an array of such services under the Program. Employment networks would meet financial reporting requirements as prescribed by the Commissioner and would prepare periodic performance reports which would be provided to beneficiaries holding a ticket and would be made available to the public.

Employment networks and beneficiaries would together develop an individual work plan in such a way that the beneficiary could exercise informed choice in selecting an employment goal and specific services needed to achieve that goal. Employment networks would undertake an vocational evaluation (as determined by the Commissioner) in order to devise the work plan, however, the Commissioner could provide for beneficiary waiver of the vocational evaluation. The bill would authorize payment to employment networks for outcomes and long-term results by providing one of two payment systems, both of which are designed to ensure that as many providers as possible would be available to serve beneficiaries with disabilities.

The outcome payment system would provide payment to employment networks up to 40 percent of the average monthly benefit for all disabled beneficiaries in the preceding year, for each month benefits were not payable to the beneficiary due to work, but not for more than 60 months.

The outcome-milestone payment system is similar to the outcome payment system, except it would provide for early payment(s) based on the achievement of one or more milestones directed towards the goal of permanent employment. To ensure cost-effectiveness of the Program, the total amount payable under the outcome-milestone payment system would be required to be less than the total amount payable to a provider than would have been payable for an individual under the outcome payment system.

The Commissioner would periodically review both payment systems, and if necessary, alter the percentages, milestones, or payment periods to ensure that employment networks have adequate incentives to assist beneficiaries into the workforce.

The Commissioner would not initiate a continuing disability review for beneficiaries who are using a ticket under the Program.

The bill would authorize transfers from the Social Security Trust Funds to carry out these provisions for Social Security beneficiaries, and authorize amounts to be appropriated to the Social Security Administration to carry out these provisions for SSI recipients.

For purposes of Program participation, the bill would define disabled beneficiary to include SSI disabled recipients and Social Se-

curity beneficiaries receiving disability insurance, disabled widow's, and childhood disability benefits.

The Commissioner would prescribe regulations necessary to carry out the Program. The Program would be implemented on a graduated basis at phase-in sites selected by the Commissioner beginning no later than 1 year after enactment. The Commissioner would design and conduct a series of evaluations to assess the cost-effectiveness and effects of the Program. The Commissioner would periodically provide to the Congress a detailed evaluation of the Program's progress, success, and any modifications needed.

An Advisory Panel would be created consisting of experts representing consumers, providers of services, employers, and employees. The Panel would advise the Commissioner and report to the Congress on Program implementation including such issues as establishing pilot sites, refining the Program, and designing Program evaluations. The Advisory Panel would be appointed within 90 days of enactment. The Advisory Panel would be composed of six members appointed as follows:

One member would be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives;

One member would be appointed by the ranking minority member of the Committee on Ways and Means of the House of Representatives;

One member would be appointed by the Chairman on Finance of the Senate;

One member would be appointed by the ranking minority member of the Committee on Finance of the Senate; and

Two members would be appointed by the President, who may not be of the same political party.

The Commissioner would prescribe regulations to address implementation issues such as the way in which tickets would be distributed to beneficiaries, the way in which State agencies would elect participation in the Program, the terms of agreements to be entered into with program managers and with employment networks, and procedures for effective oversight of the Program by the Commissioner.

The Commissioner would establish a corps of trained, accessible, and responsive work incentive specialists to specialize in disseminating accurate information to beneficiaries with disabilities.

SSA would be required to conduct a demonstration project on the effects of gradually reducing SSDI benefits \$1 for every \$2 in earnings over a level determined by the Commissioner.

GAO would conduct two studies to: (1) assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act and other Federal laws and to address the extent to which these credits and incentives encourage employers to hire individuals with disabilities under the Program; and (2) evaluate the coordination of OASDI and SSI programs as they relate to individuals who become or who no longer are concurrently entitled to both programs, and the effectiveness of work incentives and medical coverage for these individuals.

*Reason for change*

The proposal builds on the principles of consumer choice and empowerment, encouraging competition among providers of services, rewarding providers for results, and encouraging providers to have a continuing interest in beneficiaries' long-term success in maintaining employment. The proposal is designed to increase choices available to beneficiaries and increase the supply of providers that would be available to help beneficiaries into the workforce.

Recognizing that State VR agencies are able to provide consumers with a wide range of specialized services, the proposal would provide the State VR agencies the option of electing to participate in the Program or remaining under the current law reimbursement system.

Given SSA's limited resources and experience in administering employment and vocational rehabilitation services, the bill establishes program managers to help SSA administer the Program on a national basis. The Committee intends that program managers attempt to maximize beneficiary access to needed services by recommending an adequate number of providers to the Commissioner for selection.

The Commissioner of Social Security is the authorizing agent in certifying payments from the Trust Funds and the general fund of the Treasury and is, therefore, responsible for overall administration of the Program.

With respect to the issuance of tickets, the Committee intends that the Commissioner would determine the method by which SSA would notify beneficiaries of the availability of tickets, the duration for which the tickets may be assigned to an employment network, as well as the allowable renewal periods, if any, of the ticket.

The Committee also intends that the Commissioner would prescribe the times at which payments would be made to employment networks. In addition, the Commissioner would determine the phase-in schedule for State participation in the Program.

The Committee recognizes that individuals with disabilities can benefit from early assistance from groups providing dispute resolution services and believes that the Commissioner should take this into account when establishing a mechanism to resolve disputes between beneficiaries and providers.

Because State VR agencies have a limited ability to accommodate a significant number of beneficiaries with disabilities, the proposal creates a level playing field which allows private and public entities to provide services along with the State VR agencies. Expanding the pool of providers from which a beneficiary may obtain employment and rehabilitation services will increase the number of beneficiaries who receive timely, high quality employment, rehabilitation, and other support services from providers. The proposal creates employment networks to provide services to disabled beneficiaries. The Committee intends that services provided would enhance beneficiaries' employment skills by making them more marketable in the workforce and ultimately help them secure long-term employment. Employment networks would be established so that providers could pool their resources together giving beneficiaries access to a wide array of services to meet their individualized needs.

The Committee encourages the Commissioner to ensure that services are available within a geographic location so that individuals would not be unduly restricted by State borders.

The Committee intends that the "other support services" which are offered by providers may include, but are not limited to, assistive technology services and devices, supported employment services, personal assistance services, and auxiliary aids and services.

The proposal requires that employment networks ensure that employment, vocational rehabilitation, and other support services are provided under individual work plans as defined by the Commissioner. The employment network and the beneficiary would work together to develop an individual work plan. The work plan will provide beneficiaries with ownership and meaningful participation in their work attempt. Such a plan may include a statement of:

The vocational goal selected by the beneficiary;

The services and supports and coordination that have been deemed necessary for the beneficiary to accomplish that goal along with information on the expected duration and estimated costs of such services and supports;

Any terms and conditions related to the provision of such services and supports; and

Understanding regarding the rights and responsibilities available to the beneficiary, including information as to where the beneficiary can obtain assistance in resolving disputes.

The Committee believes that a work plan should:

Be signed by both the beneficiary and a representative of the employment network in receipt of the beneficiary's ticket;

Provide the beneficiary with the opportunity to amend the plan if a change in circumstances necessitates a change in the plan; and

be made available to the beneficiary and, as appropriate, in an accessible format chosen by the individual.

The proposal requires employment networks to undertake a vocational evaluation with each beneficiary in conjunction with the work plan. Recognizing that many beneficiaries are self-directed and may not need a vocational evaluation, the proposal provides for beneficiary waiver of the vocational evaluation. To the extent possible, state-of-the-art technology, evaluation tools, and work capacity testing should be utilized to generate as wide a variety of realistic vocational opportunities as possible. However, the Committee does not intend the vocational evaluation to be used as a screening device, but rather as a vehicle to assist individuals with respect to his or her abilities, capacities, interests, or desires.

The bill would authorize the Commissioner to pay employment networks under one of two payment systems: an outcome payment system; or an outcome-milestone payment system. Generally, providers bear a financial risk by providing services first, and being paid later according to their results, i.e., assisting beneficiaries to work, remaining at work and off the benefit rolls. To help small providers participate in the Program, the proposal would provide for one or more milestone payments to providers when an employment-related result has been achieved. Without the outcome-milestone payment system, provider participation in the Program might

be limited to only a few large providers who have the necessary cash flow to serve a substantial number of disabled individuals. However, to ensure the cost-effectiveness of the Program, the total of the outcome-milestone payment would be required to be less than the total amount payable to a provider that would have been payable for each individual under the outcome payment system. Because the provider would be paid for results in both payment systems, the provider has an incentive to work with the beneficiary to find the most effective means of helping that beneficiary remain employed.

Witnesses at the Subcommittee on Social Security hearings have indicated that many beneficiaries do not attempt work because of fears that a work attempt will trigger a continuing disability review that will result in benefit termination. Current law, however, provides that benefits may not be suspended or terminated for beneficiaries who are receiving rehabilitation services that are likely to help individuals to leave the disability rolls. For these reasons, the Committee provided that SSA would not initiate a continuing disability review for those beneficiaries using a ticket under the Program.

The Committee recognizes that implementing a Ticket to Work and Self-Sufficiency Program would require SSA to make system changes related to administering the Program, promulgate regulations, prepare field office instructions, design a Program evaluation methodology, award a contract to program manager(s), etc. Therefore, the proposal provides SSA with 1 year to prepare for Program implementation. The Committee intends that no later than 1 year of enactment, SSA will promulgate regulations as are necessary to carry out the provisions of the Program.

The proposal also provides for a phase-in of the Program to ensure that it is implemented in a feasible, cost-effective manner that provides expanded opportunities for beneficiaries to work and to ultimately assist them in leaving the disability program.

The proposal directs the Commissioner to design and conduct a series of evaluations of the Ticket to Work and Self-Sufficiency Program. The Commissioner would consult with the Comptroller General of the United States, private organizations with appropriate expertise, as well as design and evaluation experts within SSA, such as the Office of Research, Evaluation, and Statistics. These consultations would be expected to occur early in the process to ensure that a sound, reliable framework for evaluation is established at the beginning of the Program. In conducting the evaluations, the Commissioner would be required to consult with individuals who have participated in the Program.

Since SSA has no particular expertise in employment, vocational rehabilitation, or other support services, the proposal creates a Ticket to Work and Self-Sufficiency Advisory Panel to advise the Commissioner in implementing the Program. The Advisory Panel would be an active body consisting of diverse experts representing disability consumers, providers of services, employers, and employees. The bill stipulates that at least one member would be a current or former recipient of disability benefits, however, the Committee intends that to the degree possible, all individuals appointed

as Panel members should possess distinct knowledge and experience regarding return-to-work issues.

The Advisory Panel would provide guidance to the Commissioner on implementing the Program in an efficient, cost-effective manner that provides the maximum amount of incentive to disabled beneficiaries. The Advisory Panel would also provide advice on the design and evaluation of the Program as well as advice on the design of the demonstration project providing for reductions in SSDI benefits based on earnings. The Committee expects the Commissioner to take full advantage of the Advisory Panel's expertise.

The bill would repeal the current law provision that specifies that refusal to accept VR services without good cause will lead to the loss of benefits. Although current law, SSA has not enforced this provision. Because the Program is a voluntary one, a benefit withholding sanction is not feasible. In addition, research indicates that disabled beneficiaries who are most successful at work attempts are those who are self-motivated, therefore, the Committee views the imposition of penalties against disabled beneficiaries who choose not to work as counter-productive.

A recurring complaint among disabled beneficiaries and advocates for disabled individuals is that SSA's work incentives are complex, difficult to understand, and poorly implemented. The proposal requires SSA to establish a corps of work incentive specialists, similar to the cadres of Plan to Achieve Self-Support (PASS) specialists recently implemented in SSA. The work incentive specialist would be responsible for disseminating accurate and accessible information to disabled beneficiaries on all facets of SSA's SSDI and SSI work incentives, including demonstration projects designed to assist beneficiaries to work. Since some beneficiaries attempt work without receiving rehabilitation services, work incentive information would be available to all beneficiaries not just those participating in the Ticket Program. In addition, the Committee encourages SSA to provide available decision support software to these work incentive specialists to ensure accuracy and consistency of information provided.

At various disability-related hearings, the Subcommittee on Social Security learned about the problems unique to beneficiaries who have mental disabilities or chronic conditions, many of whom would like to work but have conditions that only let them work part time. SSDI beneficiaries lose cash benefits when they work and earn over \$500 a month after participating in the 9-month trial work period. Because of the \$500 earnings cliff, many SSDI beneficiaries view remaining on the rolls as financially more attractive than risking the uncertainties of competitive employment, especially when low-wage jobs are the likely outcome.

To help beneficiaries overcome this earnings-cliff hurdle, the proposal would require SSA to test a gradual offset of SSDI cash benefits by reducing benefits \$1 for every \$2 in earnings over a determined level. A reduction in benefits based on earnings will help soften the total loss of benefits to beneficiaries who attempt work. In addition, some experts assert that the results of a permanent provision allowing a SSDI benefit offset of \$1 for every \$2 earned over a determined level would result in prohibitive costs to the OASDI trust fund because it would encourage disabled individuals

who currently work despite their impairments to apply for benefits. The Committee intends that this demonstration project would test whether the elimination of an earnings cliff would remove the disincentive for disabled individuals to leave the disability program and yield reliable evidence regarding any induced entry effect. Also, the bill would require the Commissioner to annually report to the Congress on the progress of this demonstration project. The first report is due June 9, 2000. The Committee intends that SSA avoid any delay in implementation and would expedite the start of this project.

The proposal would require that GAO conduct two studies. There is scant information available regarding whether tax credits and other disability-related employment incentives encourage employers to hire and retain individuals with disabilities. Therefore GAO would study whether such credits are incentives to employers. Also, testimony provided to the Subcommittee revealed that disabled beneficiaries suffer adverse effects when they move from SSI eligibility to OASDI entitlement, particularly with respect to work incentives. GAO would study the effectiveness of work incentives and medical coverage for beneficiaries whose eligibility changes from one program to another.

*Effective date*

The proposal would be implemented on a gradual basis at phase-in sites selected by the Commissioner beginning no later than 1 year after enactment. The Program will be fully implemented as soon as practicable, but not later than 6 years after the Program begins.

C. SECTION 3. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS WHO ARE USING TICKETS TO WORK AND SELF-SUFFICIENCY

*Present law*

SSDI beneficiaries are allowed to test their ability to work for at least 9 months without affecting their disability or Medicare benefits.

Disability benefit payments stop when a beneficiary has monthly earnings at or above the substantial gainful work level (\$500) after the 9-month period. If the beneficiary remains disabled but continues working, Medicare continues up to an additional 39 months.

*Explanation of provision*

Medicare coverage would be extended for an additional 2-year period beyond current law for SSDI beneficiaries during the 6-year implementation period of the Ticket to Work and Self-Sufficiency Program. The Medicare extension would be implemented on a phased-in basis, paralleling the phase-in of the Ticket.

The Secretary of Health and Human Services and the Commissioner of Social Security would report their recommendations for further legislative action regarding the 2-year Medicare expansion no later than 6 years and 6 months after the date of enactment.



*Reason for change*

According to beneficiaries, their advocates, and rehabilitation providers fear of losing medical benefits is the primary reason beneficiaries are reluctant to attempt work. This provision would eliminate beneficiaries' fear of losing medical coverage for those participating in the Program by extending medical coverage 2 additional years beyond current law provisions.

*Effective date*

The Medicare extension would be implemented on the same graduated basis as the Ticket to Work and Self-Sufficiency Program and at the same phase-in sites selected by the Commissioner no later than 1 year after enactment.

D. SECTION 4. TECHNICAL AMENDMENTS RELATING TO DRUG  
ADDICTS AND ALCOHOLICS

*Present law*

Public Law 104-121 included amendments to the Social Security and Supplemental Security Income (SSI) disability programs providing that no individual could be considered to be disabled if alcoholism or drug addiction would otherwise be a contributing factor material to the determination of disability. The effective date for all new and pending applications was the date of enactment. For those whose claim had been finally adjudicated before the date of enactment, the amendments would apply commencing with benefits for months beginning on or after January 1, 1997. Individuals receiving benefits due to drug addiction or alcoholism can reapply for benefits based on another impairment. If the individual applied within 120 days after the date of enactment, the Commissioner is required to complete the entitlement redetermination by January 1, 1997.

Public Law 104-121 provided for the appointment of representative payees for recipients allowed benefits due to another impairment who also have drug addiction or alcoholism conditions, and the referral of those individuals for treatment.

*Explanation of provision*

The provision clarifies that the meaning of the term "final adjudication" includes a pending request for administrative or judicial review or a pending readjudication pursuant to class action or court remand. Also clarifies that if the Commissioner does not perform the entitlement redetermination before January 1, 1997, that entitlement redetermination must be performed in lieu of a continuing disability review.

Corrects an anomaly that currently excludes all those allowed benefits (due to another impairment) before March 29, 1996, and redetermined before July 1, 1996, from the requirement that a representative payee be appointed and that the recipient be referred for treatment.

*Reason for change*

The provision clearly defines "final adjudication" to avoid any misinterpretation by the courts. One court has concluded that it

can award benefits through January 1, 1997, because the Commissioner's decision denying benefits was issued before March 29, 1996.

As written, current law creates an anomaly, whereby all those allowed benefits (due to another impairment) before March 29, 1996, and redetermined before July 1, 1996, are excluded from the requirement that a representative payee be appointed and that they be referred for treatment. The provision corrects this anomaly.

*Effective date*

The amendments would be effective as though they had been included in the enactment of Section 105 of Public Law 104-121 (March 29, 1996).

**E. SECTION 5. EXTENSION OF DISABILITY INSURANCE PROGRAM  
DEMONSTRATION PROJECT AUTHORITY**

*Present law*

Under authority that expired on June 9, 1996, the Commissioner may initiate experiments and demonstration projects to test ways to encourage Social Security Disability Insurance (SSDI) beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects.

*Explanation of provision*

This provision would extend demonstration authority to June 10, 2001, and would include authority for demonstration projects involving applicants as well as beneficiaries.

*Effective date*

Date of enactment.

**F. SECTION 6. PERFECTING AMENDMENTS RELATED TO  
WITHHOLDING FROM SOCIAL SECURITY BENEFITS**

*Present law*

The Uruguay Round Agreements Act includes revenue provisions requiring that U.S. taxpayers who receive specified Federal payments (including Social Security benefits) be given the option of requesting that the Department of Treasury withhold Federal income taxes from payments made after December 31, 1996.

Section 207 of the Social Security Act prohibits withholding or assignment of Social Security benefits to any party or entity other than the beneficiary.

*Explanation of provision*

Due to a drafting oversight, the Uruguay Round Agreements Act failed to override the Social Security Act provision that prohibits the assignment of benefits. The provision would amend the Social Security Act anti-assignment section to allow provisions in the tax code to be implemented. It also allocates funding for SSA to administer the tax-withholding provision.

*Reason for change*

These provisions amend the Social Security Act so that the provisions in the tax code may be implemented, as originally intended, and funding may be allocated for SSA to administer the tax-withholding provision.

*Effective date*

Applies to benefits paid on or after the first day of the second month beginning after the month of enactment.

## G. SECTION 7. TREATMENT OF PRISONERS

## 1. IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF TITLE II BENEFITS TO PRISONERS

*Present law*

Current law prohibits prisoners from receiving Old Age, Survivors and Disability (OASDI) benefits while incarcerated if they are convicted of any crime punishable by imprisonment of more than one year. Federal, State, county or local prisons are required to make available, upon written request, the name and Social Security number (SSN) of any individual so convicted who is confined in a penal institution or correctional facility.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, requires the Commissioner to make agreements with any interested State or local institution to provide monthly the names, SSNs, confinement dates, dates of birth, and other identifying information of residents who are Supplemental Security Income (SSI) recipients. The Commissioner is required to pay the institution \$400 for each SSI recipient who becomes ineligible as a result, if the information is provided within 30 days of incarceration, and \$200 if the information is furnished after 30 days but within 90 days. P.L. 104-193 requires the Commissioner to study the desirability, feasibility, and cost of establishing a system for courts to directly furnish SSA with information regarding court orders affecting SSI recipients, and requiring that State and local jails, prisons, and other institutions that enter into contracts with the Commissioner furnish the information by means of an electronic or similar data exchange system.

The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to these agreements to any Federal or federally-assisted cash, food or medical assistance program, for the purpose of determining program eligibility.

*Explanation of provision*

The provision amends prisoner provisions in P.L. 104-193 to include Old Age, Survivors, and Disability Insurance (OASDI) benefits.

The Commissioner would enter into an agreement with State and local correctional institutions to provide monthly reports which list the names, SSNs, confinement dates, dates of birth, and other identifying information regarding prisoners who receive OASDI benefits. Certain requirements for computer matching agreements would not apply. For each eligible individual who becomes ineli-

gible as a result, the Commissioner would pay the institution an amount up to \$400 if the information is provided within 30 days of incarceration, and up to \$200 if provided after 30 days but within 90 days.

Payments to correctional institutions are reduced by 50 percent for multiple reports on the same individual who receives both SSI and OASDI benefits. Payments made to the correctional institution are made from OASI or DI Trust Funds, as appropriate.

The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to these agreements to any Federal or Federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

*Reason for change*

The provision applies the prohibitions against payment of benefits to OASDI benefits in the same manner that they apply to SSI benefits. Both SSI and OASDI prisoner provisions were included in the House-passed version of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. OASDI provisions were deleted in the Senate because of Senate procedural rules. This language restores the OASDI provisions.

These provisions provide new financial incentives for State and local correctional institutions to report information on inmates to the Social Security Administration (SSA) so that payment of OASDI benefits to prisoners being supported at taxpayer expense are stopped promptly.

Privacy Act procedural requirements for computer matching agreements between the Commissioner and correctional institutions impose an excessively costly administrative burden that could hamper the administration of the prisoner payment provisions. Therefore, the Computer Matching and Privacy Protection Act would not apply to the information exchanged under these provisions.

The provision allows SSA to share, and be reimbursed for, any information obtained through these agreements that would assist other Federal agencies in administering their programs.

Payments would be restricted to \$400, even if the prisoner is entitled to both SSI and OASDI benefits.

*Effective date*

These amendments would be effective for confinements beginning at least three full months after the date of enactment.

**2. ELIMINATION OF TITLE II REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR**

*Present law*

The Social Security Act bars payment of OASDI benefits to prisoners convicted, or who are institutionalized because they are found guilty but insane, of any crime punishable by imprisonment of more than a year.

*Explanation of provision*

This provision would broaden the prohibition of OASDI payment benefits to prisoners to be identical to those that apply to SSI benefits. In addition, it would replace "an offense punishable by imprisonment for more than 1 year" with "a criminal offense," delete other language, and include benefits payable to persons confined, throughout a month, to: (1) a penal institution; or (2) other institution if found guilty but insane, regardless of the total duration of the confinement.

*Reason for change*

An audit conducted by the SSA Office of Inspector General determined that the language in existing law required that for each prisoner eligible for benefits, the duration of incarceration be determined on a case-by-case basis, based on data that can only be obtained from the courts. This is a costly, labor-intensive process that impedes timely suspension of benefits. As a matter of fairness, benefits would also be barred to persons who commit serious crimes but are found guilty by reason of insanity, regardless of the total duration of the institutionalization.

*Effective date*

Effective for those prisoners whose confinement begins on or after the first day of the fourth month after the month of enactment.

## 3. CONFORMING TITLE XVI AMENDMENTS

*Present law*

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required the Commissioner of Social Security to enter into an agreement with any interested State or local institution (defined as a jail, prison, other correctional facility, or institution where the individual is confined due to a court order) under which the institution shall provide monthly the names, Social Security numbers, dates of birth, confinement dates, and other identifying information. The Commissioner must pay to the institution for each eligible individual who becomes ineligible for SSI \$400 if the information is provided within 30 days of the individual's becoming an inmate. The payment is \$200 if the information is furnished after 30 days but within 90 days.

*Explanation of provision*

The amendment would clarify that, in cases in which an inmate receives benefits under both the SSI and Social Security programs, payments to correctional facilities would be restricted to \$400 or \$200, depending on when the report is furnished. The amendment also expands the categories of institutions eligible to report incarceration of prisoners.

*Reason for change*

Applies payment restriction to correctional facilities for OASDI benefits in the same manner that they apply to SSI payments.

*Effective date*

August 22, 1996.

4. CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING  
CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON  
TERM

*Present law*

No provision.

*Explanation of provision*

The amendment would prohibit OASDI payments to sex offenders who, on completion of a prison term, remain confined in a public institution pursuant to a court finding that they continue to be sexually dangerous to others.

*Reason for change*

The denial of benefits is extended in the case of sex offenders who remain confined after completing their prison terms.

*Effective date*

The amendment would apply to benefits for months ending after the date of enactment.

H. SECTION 8. REVOCATION BY MEMBERS OF THE CLERGY OF  
EXEMPTION FROM SOCIAL SECURITY COVERAGE

*Present law*

Practicing members of the clergy are automatically covered by Social Security as self-employed workers unless they file for an exemption from Social Security coverage within a period ending with the due date of the tax return for the second taxable year (not necessarily consecutive) in which they receive reimbursement for their ministerial services. Members of the clergy seeking the exemption must file statements with their church, order, or licensing or ordaining body stating their opposition to the acceptance of Social Security benefits on religious principles. If elected, this exemption is irrevocable.

*Explanation of provision*

The proposal would provide a 2-year "open season," beginning January 1, 1999, for members of the clergy who want to revoke their exemption from Social Security. This decision to join Social Security would be irrevocable. A member of the clergy choosing such coverage would become subject to self employment taxes and his or her subsequent earnings would be credited for Social Security (and Medicare) benefit purposes.

*Reason for change*

Some members of the clergy elected not to participate in Social Security (and Medicare) early in their careers, before they fully understood the ramifications of doing so. Because the election is irrevocable, there is no way for them to gain access to the program under current law. Clergy typically have modest earnings through-

out their working life times and would be among those most likely to rely on Social Security (and Medicare) for much of their basic health care and living expenses in retirement. This proposal gives them a limited opportunity to enroll in the system, similar to those provided by Congress in 1977 and 1986.

*Effective date*

The proposal would be effective with respect to service performed in taxable years beginning after December 31, 1998, for a period of 2 years, and with respect to monthly benefits in or after the calendar year the individual's application for revocation is effective.

**I. SECTION 9. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND TITLE XVI**

*Present law*

Current law authorizes funding for making grants to States and public and other organizations for paying part of the cost of cooperative research or demonstration projects.

*Explanation of provision*

Clarifies current law to include agreements or grants concerning title II of the Social Security Act.

*Reason for change*

Corrects an omission of intended title II authority.

*Effective date*

August 4, 1994.

**III. VOTE OF THE COMMITTEE**

In compliance with change 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made:

The bill, H.R. 3433 was ordered favorably reported to the House of Representatives May 6, 1998 by voice vote, with a quorum present.

**IV. BUDGET EFFECTS OF THE BILL**

**A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS**

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the following statement is made:

The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO) which is included below.

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

In compliance with clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee states the Committee bill results in net decreased budget authority for direct spending programs relative to current law, and no new or increased tax expend-

itures. Revenues are increased due to the revocation by members of the clergy of exemption from Social Security coverage.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 2(1)(3)(C) of rule XI of the House of Representatives requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, May 8, 1998.

Hon. BILL ARCHER,  
Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998.

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

Sincerely,

PAUL VAN DE WATER  
(for June E. O'Neill, Director).

Enclosure.

*H.R. 3433—Ticket to Work and Self-Sufficiency Act of 1998*

Summary: H.R. 3433, the Ticket to Work and Self-Sufficiency Act of 1998, would revamp the system under which people collecting disability benefits from the Social Security and Supplemental Security Income programs receive vocational rehabilitation services. The bill would also require several demonstration projects, give certain members of the clergy another opportunity to enroll in the Social Security system, and tighten restrictions on the payment of Social Security benefits to certain prisoners. CBO estimates that the bill would add to the federal surplus by \$38 million over the 1999–2003 period; of that amount, \$11 million is in Social Security (which is legally off-budget) and the rest in other programs (which are on-budget).

H.R. 3433 contains no intergovernmental mandates, as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3433 is summarized in the following table. The costs of this legislation fall within budget functions 570 (Medicare), 600 (Income Security), and 650 (Social Security).

TABLE 1. SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF H.R. 3433  
[By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
DIRECT SPENDING						
Spending under current law:						
Old-Age, Survivors, and Disability Insurance .....	375,785	391,477	408,764	427,736	448,711	471,221



TABLE 1. SUMMARY OF ESTIMATED BUDGETARY EFFECTS OF H.R. 3433—Continued  
 [By fiscal year, in millions of dollars]

	1998	1999	2000	2001	2002	2003
Supplemental Security Income .....	27,301	28,563	29,985	31,595	33,371	35,302
Medicare <sup>1</sup> .....	196,941	208,178	218,505	239,668	246,198	270,931
Medicaid .....	100,506	108,418	115,014	122,594	130,891	140,742
Total .....	700,533	736,636	772,268	821,593	859,171	918,196
Proposed changes:						
Old-Age, Survivors, and Disability Insurance .....	0	2	1	7	10	7
Supplemental Security Income .....	0	-1	-5	-6	-6	-8
Medicare <sup>1</sup> .....	0	0	0	(?)	(?)	2
Medicaid .....	0	(?)	(?)	(?)	(?)	(?)
Total .....	0	1	-4	1	5	1
Off-budget (OSADI) .....	0	2	1	7	10	7
On-Budget .....	0	-1	-5	-6	-6	-6
Proposed spending under H.R. 3433:						
Old-Age, Survivors, and Disability Insurance .....	375,785	391,479	408,765	427,743	448,721	471,228
Supplemental Security Income .....	27,301	28,562	29,980	31,589	33,365	35,294
Medicare <sup>1</sup> .....	196,941	208,178	218,505	239,668	246,198	270,933
Medicaid .....	100,506	108,418	115,014	122,594	130,891	140,742
Total .....	700,533	736,637	772,264	821,594	859,176	918,197
REVENUES						
Proposed Changes:						
Off-budget (OSADI) .....	0	3	7	9	9	10
On-budget .....	0	(?)	1	1	1	1
Total .....	0	3	8	10	10	11
DEFICIT (-) OR SURPLUS						
Proposed changes:						
Off-budget (OSADI) .....	0	(?)	7	2	-1	2
On-budget .....	0	1	6	7	7	7
Total .....	0	2	12	9	6	9

<sup>1</sup> Medicare consists of outlays of the Hospital Insurance and Supplementary Medical Insurance trust funds, less premiums.

<sup>2</sup> Less than \$500,000.

Note.—Components may not sum to totals due to rounding. OSADI=Old-Age, Survivors, and Disability Insurance.

Basis of estimate: For purposes of estimating the budgetary effects of H.R. 3433, CBO assumes enactment in September 1998. CBO's estimate of the bill's effects, by provision, are detailed in the following table and explained below.

Ticket to Work and Self-Sufficiency Program (Section 2): Section 2 of H.R. 3433 would change the way that vocational rehabilitation (VR) services are provided to recipients of Social Security Disability Insurance (DI) and Supplemental Security Income (SSI) benefits. It would also require that SSA test the savings (or costs) of some alternative methods of treating earnings in the DI program.

Current Law. DI and SSI recipients currently receive VR services chiefly through state VR agencies. Data on their experience under those programs are sketchy. The Social Security Administration (SSA) attempts to spot good candidates for VR and refer them for services when it awards benefits, but it does not monitor what happens to them next. VR agencies accept only a fraction of the candidates referred. SSA reimburses the VR agencies for the cost of services rendered if the beneficiary has performed 9 consecutive months of substantial gainful activity (SGA, currently defined by regulation as earnings of more than \$500 a month). In 1996, SSA

began recruiting alternate providers under the Referral System for Vocational Rehabilitation Providers (RSVP) program. Candidates must first be referred to and rejected by the state VR agencies, and the alternate providers face the same reimbursement system (that is, a single payment after 9 months of substantial work). Thus, VR for DI and SSI recipients remains fundamentally a state program.

Scattered clues suggest that approximately 10 percent to 15 percent of new DI and SSI recipients are referred to state VR agencies and that about 10 percent of those referred are accepted. Recently, SSA has made approximately 650,000 DI awards a year; thus, it is likely that about 60,000 to 90,000 a year were referred to VR and perhaps 6,000 received services. SSA has consistently paid for about 4,000 claims per year for VR services provided to DI recipients. SSA has also steadily paid about 4,000 claims for VR services to SSI recipients. Since about 2,000 claims are for people who collect benefits under both programs, total claims reimbursed are about 6,000 a year.

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF PROVISIONS OF H.R. 3433  
[By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
SECTION 2										
Ticket program for vocational rehabilitation clients-DI:										
Payments to program manager .....	1	2	1	1	2	3	3	4	4	4
Milestone payments to providers .....	0	(1)	1	5	11	17	21	24	28	33
Incentive payments to providers .....	0	(1)	(1)	3	12	27	48	66	87	109
Gradual phase-out of current VR system .....	0	(1)	(1)	-3	-8	-14	-21	-32	-44	-58
Benefits avoided .....	0	(1)	(1)	-4	-20	-48	-84	-98	-112	-126
Extra benefits paid .....	0	(1)	1	2	3	5	7	10	13	16
Subtotal, DI .....	1	2	3	5	1	-10	-26	-27	-24	-22
Resulting Medicare savings <sup>2</sup> .....	0	0	(1)	(1)	1	1	1	-2	-9	-20
Total, provision .....	1	2	3	5	1	-9	-25	-29	-33	-41
Tickets program for vocational rehabilitation clients-SSI:										
Payments to program manager .....	(1)	1	(1)	1	1	1	2	2	2	2
Milestone payments to providers .....	0	(1)	1	3	6	9	10	12	14	16
Incentive payments to providers .....	0	(1)	(1)	1	3	7	12	17	22	28
Gradual phase-out of current VR system .....	0	(1)	(1)	-1	-4	-7	-11	-16	-22	-29
Benefits avoided .....	0	(1)	(1)	-1	-5	-12	-22	-25	-29	-32
Extra Benefits paid .....	0	0	0	0	0	0	0	0	0	0
Subtotal, SSI .....	(1)	1	1	2	(1)	-3	-8	-11	-13	-15
Resulting Medicaid savings .....	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Total, Provision .....	(1)	1	1	2	(1)	-3	-8	-11	-13	-15
"S1-for-\$2" Demonstration Projects: <sup>5</sup>										
Contractor Costs .....	0	(1)	4	5	6	6	4	4	4	4
DI Benefit Costs .....	0	0	3	8	13	18	19	18	18	18

TABLE 2. ESTIMATED BUDGETARY EFFECTS OF PROVISIONS OF H.R. 3433—Continued  
 [By fiscal year, in millions of dollars]

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Medicare Costs .....	0	0	0	0	2	4	7	9	9	9
Total, Provision .....	0	0	7	13	20	28	29	31	31	31
SECTION 3										
Extension of Medicare from 3 years to 5 years for clients suspended from DI who have used a ticket <sup>1</sup> .....	0	0	0	0	( <sup>1</sup> )	( <sup>1</sup> )	1	0	0	0
SECTION 5										
Extension of DI demonstration project authority until June 10, 2001 .....	3	5	5	3	( <sup>1</sup> )	0	0	0	0	0
SECTION 7										
Prisoner-related provisions:										
Payments to prison officials—OASDI .....	2	7	7	8	9	10	10	10	10	10
Payments to prison officials—SSI .....	0	1	1	1	1	1	1	1	1	1
Savings in benefits—OASDI .....	-3	-13	-15	-18	-20	-20	-20	-20	-20	-20
Savings in benefits—SSI .....	-1	-6	-7	-8	-9	-10	-10	-10	-10	-10
Total, provision .....	-3	-13	-15	-17	-20	-20	-20	-20	-20	-20
SECTION 8										
Two-year open season for enrollment by clergy:										
Off-budget (OASDI) revenues .....	3	7	9	9	10	10	10	11	11	11
On-budget (HI) revenues .....	1	2	2	2	2	2	2	2	3	3
Other On-budget revenues .....	( <sup>1</sup> )	-1	-1	-1	-1	-1	-1	-1	-1	-1
OASDI benefits .....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )
Total, provision (effect on deficit) .....	-3	-8	-10	-10	-11	-11	-11	-12	-12	-13
TOTAL										
Outlays:										
On-budget .....	-1	-5	-6	-6	-6	-7	-9	-14	-22	-35
Off-budget .....	2	1	7	10	7	4	-14	-15	-13	-11
Total .....	1	-4	1	5	1	-2	-23	-29	-35	-46
Revenues										
On-budget .....	( <sup>1</sup> )	1	1	1	1	1	1	1	1	1
Off-budget .....	3	7	9	9	10	10	10	11	11	11
Total .....	3	8	10	10	11	11	11	12	12	13
Deficit (-) or surplus (+)										
On-budget .....	1	6	7	7	7	8	10	15	23	36
Off-budget .....	( <sup>1</sup> )	7	2	-1	2	6	24	26	24	22
Total .....	2	12	9	6	9	14	35	41	47	58

<sup>1</sup> Less than \$500,000.

<sup>2</sup> These savings would occur under current Medicare law. Section 3 of the bill would also extend Medicare coverage for certain suspended recipients.

<sup>3</sup> CBO expects that the vast majority of rehabilitated SSI recipients would continue to get Medicaid coverage through the 1619(b) program.

<sup>4</sup> Under the proposal, the Medicare extension would cover only those recipients who returned to work and used a "ticket" under the new program. The provision would expire 7 years after enactment.

<sup>5</sup> The bill would require SSA to test graduated reductions in benefits (such as "\$1-for-\$2" above \$85 or above SGA, currently \$500) on a sufficient scale and for a long enough period to permit valid statistical analysis.

Note.—Components may not sum to totals due to rounding.

Clearly, some DI and SSI recipients also return to work without the help of VR agencies. Research suggests that only 10 percent to

20 percent of DI recipients ever work after they start collecting benefits, and only 2 percent to 3 percent eventually have benefits withheld. In contrast, SSA reimburses claims for VR services for fewer than 1 percent of recipients. Thus, for each VR success, one or two other DI recipients go back to work and are suspended from the rolls without VR.

The DI program has several features that are meant to smooth beneficiaries' return to work. Applicants must show that they are incapable of substantial work in order to be awarded benefits. If they do work, the law permits them to earn unlimited amounts for a 9-month period (known as trial work) and a subsequent 3-month grace period before suspending benefits. During the next 3 years—a period known as the extended period of eligibility, or EPE—those beneficiaries may automatically return to the DI rolls if their earnings sink below \$500. Furthermore, Medicare benefits (for which DI beneficiaries qualify after two years on the rolls) also continue during the 3 years of extended eligibility.

The SSI disability program is restricted to people with low income and few resources. Although applicants for SSI benefits must meet the same disability criteria as in the DI program, the SSI program's subsequent treatment of earnings differs somewhat. SSI recipients who work get a reduced benefit (essentially, losing \$1 of benefits for each \$2 of earnings over \$85 a month) but do not give up their benefit entirely. If their earnings top \$500 but they are still medically disabled, they move into section 1619(a) status (and still collect a small cash benefit). If their earnings rise further, they enter 1619(b) status (where they collect no cash benefit but still qualify for Medicaid).

H.R. 3433. The bill would revamp the VR system by permitting nearly any recipient who desires VR to receive it, by permitting clients to choose from a variety of providers in addition to state VR agencies, and by stretching out reimbursements to providers for up to 5 years, contingent on their clients' sustained absence from the rolls.

Under H.R. 3433, SSA would issue tickets to DI and SSI beneficiaries that they could assign to approved VR providers, whether state, private for-profit, or nonprofit. The bill would grant wide latitude to SSA in deciding the terms and conditions of the tickets; SSA tentatively plans to issue tickets to new beneficiaries at the time of award, unless they are deemed likely to recover medically, and to current beneficiaries following a continuing disability review. By accepting a ticket, providers—labeled "networks" in the bill—would agree to supply services, such as training, assistive technology, physical therapy, or placement. A program manager, selected by SSA, would aid in recruiting providers and handling the nuts-and-bolts administration of the program.

Providers could choose between two forms of reimbursement from SSA. One system would be based solely on outcomes; the provider would receive 40 percent of the advantage DI or SSI benefit for up to 5 years, so long as the client stayed off the rolls. Some providers fear, through, that they would experience acute cash-flow problems under such a system. To address that concern, the bill also offers a blended system, dubbed the "milestone-outcome" system. Under that system, SSA would make some payments earlier, but would

trim subsequent payments to ensure that the overall cost (calculated on a net present value basis) did not exceed the cost of a pure outcomes system.

The new program would be phased in gradually. H.R. 3433 calls for it to start in selected areas a year after enactment, and to operate nationwide six years later. Because new providers would continue to come on board even after the program starts operation in an area, CBO assumes that it would take nearly 10 years for the new program to run at its full potential.

CBO assumes that about 7 percent of newly-awarded beneficiaries would seek VR services if they were readily available, versus only about 1 percent who receive them under current law. Both the Transitional Employment Demonstration (TED, a demonstration conducted in the mid-1980s and confined to mentally retarded recipients) and Project Network (a demonstration begun in 1992 and open to both DI and SSI beneficiaries) suggested that about 5 percent of beneficiaries would enroll in VR if given the chance. CBO judged that the level of interest ultimately would slightly exceed 5 percent for two reasons. First, intake under Project Network developed bottlenecks, which may have discouraged some potential participants. Second, Project Network barred any recipients who were employed or self-employed from enrolling; no such bar would be in place under H.R. 3433, however, and those recipients would probably be interested in receiving services and would be attractive to providers.

Research suggests that giving VR raises the propensity to work, and only work can lead to an earnings-related suspension. Based on several econometric studies and on the results to the TED demonstration, CBO assumes that slightly over half of the extra recipients would work. That raw figure, however, can easily exaggerate the effectiveness of VR. The handful of beneficiaries who would sign up for VR are probably the most motivated, and many would have worked anyway. In fact, CBO assumes that one effect of H.R. 3433 would be to enable providers to be reimbursed for providing services for many people who would have worked anyway.

These expected effects can be illustrated by following the experiences of one hypothetical cohort of 650,000 disabled workers—the approximate volume of annual awards in 1992, through 1997. Under current law, about 6,000 would be served under the state VR programs; 4,000 of them would eventually generate a reimbursement to the state program, and would be suspended for at least a month. Another 9,000 would be suspended due to earnings, for at least one month, without any reimbursement to VR. Thus, total suspensions would be about 13,000, or about 2 percent of the cohort, under current law. CBO assumes that, if those beneficiaries could freely enroll in VR using a “ticket,” about 7 percent or 47,000 would get VR services. Most of those VR clients would work, and many (about 12,000) would be suspended for at least one month, an increase of 8,000 in VR-reimbursed cases. However, CBO assumes that about 6,000 of these workers would have gone back to work unaided. Thus, for this cohort, net VR-related suspensions would be 2,000 higher.

In estimating H.R. 3433, CBO adjusted those hypothetical figures for its caseload projections and timing factors. First, CBO as-

sumes that the volume of disabled-worker awards gradually climbs from 625,000 in 1998 to about 810,000 in 2005. Second, CBO also assumed that some extra rehabilitations would occur among the nearly 5 million current DI beneficiaries, not just among new awards, although current beneficiaries are generally poorer candidates for VR than new applicants with more recent work experience. Third, CBO adjusted the numbers for the gradual phase-in of the new system. Under the bill's schedule, assuming enactment by September 1998, the first services would be rendered at a handful of sites in fiscal year 2000. If those clients engaged in trial work in 2001, the first extra suspensions would occur in 2002. Each year, more areas would be brought into the new system.

Specifically, CBO assumed that the number of net additional suspensions—that is, suspensions that would not occur in the absence of the new program—would equal only 400 in 2002, 1,800 in 2003, and between 3,000 and 4,000 a year in 2004 through 2008. Gross suspensions that involve reimbursement to a VR provider would range between 4,000 and 5,000 a year under current law, but would be markedly higher—about 700 more in 2002 and about 9,000 more in 2008—under the proposal. And the number of suspensions involving no reimbursement to VR would drop from about 9,000 in 2002 to about 5,500 in 2008.

CBO also had to make assumptions about recidivism. Many studies have documented that DI recipients who leave the rolls often return. It is not clear whether recipients of VR services are more or less likely to return to the rolls than others; some evidence suggests that the extra boost provided by VR fades over time. Because H.R. 3433 proposes to pay providers for up to 5 years, but only if the recipient stays off the rolls, assumptions about recidivism are critical. Based on a variety of sources, CBO assumes that recipients suspended from the rolls have about a two-thirds chance of still being suspended one year later, about a one-half chance 3 years later (when, technically, their DI entitlement is terminated), and a 40 percent chance after 5 years.

*Effects of the Tickets Program in DI.* The budgetary consequences of H.R. 3433, from the standpoint of the DI program, would consist of seven effects:

*Payments to the program manager.*—SSA would hire a program manager to coordinate issuance of tickets, the recruitment of providers, and other tasks. Based on a similar arrangement in the RSVP program, CBO assumes that payments to the program manager would amount to just a few million dollars a year.

*Milestone payments to providers.*—As explained earlier, the bill would give providers a choice between a pure outcome-based system (in which providers would get only periodic payments during the period of suspension) and a blended outcome-milestone system (in which they could get some money earlier). CBO assumes that most providers would opt for the blended system, which CBO assumes to consist of \$500 after several months of work and a \$1,000 bonus on the date of suspension. Placements would be considerably easier for providers to achieve than suspensions. In 2002, milestone payments would be \$1 million for the first batch of 1,000 gross suspensions (mostly people enrolled in 2000, the first year of services) and another \$4 million for about 8,000 working clients (mostly peo-

ple served in 2001) for a total of \$5 million. In 2008, these payments would be about \$14 million for 14,000 gross suspensions and another \$19 million for about 38,000 work efforts, or \$33 million total.

*Incentive payments to providers.*—The incentive payments would occur over a period of up to 5 years if the beneficiary remains off the rolls. In the pure outcomes system, they would be 40 percent of average benefits. CBO assumes that most providers would opt for the blended payment system, under which—in return for getting some earlier milestone payments—they would accept incentive payments of 30 percent. In 2002, 1,000 suspended beneficiaries would each generate an incentive payment of 30 percent times about \$800 a month, or about \$3 million for the year. In fiscal year 2008, gross suspensions of rehabilitation clients over the 2004–2008 period are assumed to be about 50,000. Some of those would have returned to the rolls, and a few would have died; CBO assumes that 33,000 of the 50,000 would remain suspended. At an average benefit of about \$900 a month, incentive payments would total \$109 million.

*Gradual phase-out of current VR system.*—CBO assumes that, under current law, the DI trust fund would reimburse claims for VR services (principally claims from state agencies) of about 4,000 at present (at an average cost of about \$11,000), growing to about 5,300 in 2008 (at an average cost of about \$14,000). The new program would gradually replace the current-law system. Even by 2008, a few vestiges of the old system would remain; roughly 20 percent of services rendered in 2006, for example, might still lie outside ticket areas and therefore would generate reimbursements in 2008 (allowing one year for services and one year for trial work) under the old system. Thus, in 2008, the current-law VR program is expected to cost about \$70 million, and about 80 percent of that would have been superseded by the new system.

H.R. 3433 would grant state VR agencies the option of remaining in the current reimbursement system—that is, charging reimbursement for the full amount of costs incurred after 9 months of work. Whether or not those agencies would choose to remain, though, is largely immaterial to CBO's estimate; most clients would be served by other providers.

*Benefits avoided.*—The various payments to providers discussed above all depend on the number of gross rehabilitations. The savings in DI benefits, in contrast, depend on the number of net or extra rehabilitations. That distinction is important: when providers serve clients who would have worked and eventually been suspended anyway, they do not generate savings in DI benefits.

In 2002, of the total 1,000 suspensions of ticket holders, only 400 would constitute extra rehabilitations. At an average benefit of about \$800 a month, savings would be \$4 million. By 2008, CBO assumes that there would have been a total of 53,000 gross rehabilitations over the 2002–2008 period of which 20,000 would represent extra rehabilitations. Under CBO's assumptions about recidivism, about 12,000 of those 20,000 would still be off the rolls; at an average benefit of about \$900, benefit savings would be about \$126 million.

*Extra benefits paid.*—Some people might file for DI benefits in order to get VR services, or may even be encouraged to do so by prospective providers (for example, by an insurance company that helps to run their employer's private disability or workers' compensation coverage). For those filers, the entire benefit cost (for any time they spend on the rolls) and the VR cost (if they do eventually get suspended) would be a net cost to the DI program.

To some extent, SSA could minimize this problem by setting the terms and conditions under which it would issue tickets—for example, by denying them to beneficiaries who are expected to experience a medical recovery quite soon. But some such filers might still seep through. CBO assumes that, when fully phased in, about 500 such filers would be induced to apply each year, and half would in fact be rehabilitated after a year or two on the rolls. By 2008, under the phase-in assumptions used by CBO, there would have been a total of 2,400 awards to induced filers; 1,400 would still be on the rolls; and benefits to them, assuming an average monthly check of \$900, would cost about \$16 million.

*Resulting Medicare savings.*—DI recipients who return to work automatically continue to receive Medicare coverage for 3 years after their suspension from DI. By leading to the rehabilitation and suspension of more DI recipients, H.R. 3433 would be expected to generate some savings in Medicare. DI beneficiaries who are capable of working are probably healthier than other beneficiaries, and their per-capita Medicare cost therefore less than average.

Under CBO's assumption that the first services would be rendered in 2000 and the first resulting suspensions in 2002, Medicare savings would begin in 2005. Of the 400 extra suspensions in 2002, only 200 are still suspended when they complete their EPE in 2005, and Medicare savings would be a scant \$1 million. By 2008, 10,000 extra suspensions are assumed to have occurred over the 2002–2005 period; 5,000 would still be off the rolls; and \$20 million in Medicare savings would result.

On balance, over the 1999–2003 period, CBO posits a small net cost in the DI program from the proposed tickets, mainly because there would be very few extra rehabilitations but there would be some startup costs and a few dollars paid to induced filers. Later, CBO posits small net savings, chiefly because the DI benefit savings from the extra suspensions outweigh, by a slim margin, the costs of paying for those beneficiaries who are skimmed by the providers. Obviously, different assumptions about the relative sizes of these groups would change the conclusions.

*Effects of the Tickets Program in SSI.*—H.R. 3433 would also bring SSI participants into the new tickets to work program. CBO estimated effects in the SSI program in a manner similar to its estimates for DI. There are a few notable differences.

The number of SSI recipients affected by the bill is generally assumed to be only half as many as in DI. Under current law, SSA generally pays for about 6,000 rehabilitations a year—4,000 in DI and 4,000 in SSI, of which 2,000 are concurrent. Under the bill, services rendered by providers to concurrent beneficiaries would essentially be compensated under the DI rules. Thus, to avoid double-counting concurrent beneficiaries, CBO generally assumed only half as many cases in its SSI estimates as in the analogous DI esti-



mates. Average benefits for disabled SSI beneficiaries are also only about half as large as in the DI program—in 2002, for example, about \$400 in SSI versus \$800 in DI. Therefore, all payments under the proposed system that are pegged to the average benefit, such as the incentive payments to providers, would be smaller in SSI. In fact, that provision has aroused concern that providers would be less willing to provide services to the SSI population. CBO implicitly assumes that providers would serve this group, perhaps emphasizing cheaper services with repeated interventions if necessary.

Because SSI is limited to beneficiaries with low income and few resources, CBO assumed that there would be few induced filers. CBO also assumed that most SSI beneficiaries affected by the bill would retain Medicaid coverage through section 1619(b).

The upshot of H.R. 3433 in the SSI program is a pattern that resembles that for DI: small early costs, giving way to small savings after 2003.

*Demonstration Projects.* Under current law, after completing the trial work period and the 3-month grace period (during which earnings are disregarded), a disabled worker gives up his or her entire benefit in any month that earnings exceed SGA (\$500). Both anecdotal and statistical evidence suggest that many beneficiaries balk at that, instead quitting work or holding their earnings just below the threshold. Some advocates favor instead, cutting benefits by \$1 for every \$2 of earnings over \$500 a month. More modestly, some favor a treatment of earnings more like the SSI program—a cut of \$1 in benefits for every \$2 of earnings over \$85 a month.

It is very likely that such proposals would encourage more people who are already on the DI rolls to work. Although fewer beneficiaries would be suspended (i.e., have their benefit reduced to zero,) many might have their benefit substantially reduced. A major concern about such proposals is that they would encourage an unknown number of people to file for benefits. Survey data suggest that there are millions of severely impaired people who are nevertheless working and not collecting DI. Filing for benefits, and working part-time, might improve their standards of living. That incentive would be much stronger if the DI program liberalized its treatment of earnings. The SSA Actuary's office in 1994 estimated that applying a \$1-for-\$2 policy for earnings above \$500 would cost \$5 billion in extra DI benefits over a 5-year period and that setting the threshold at \$85 would cost \$2 billion.

H.R. 3433 would require SSA to conduct demonstrations to test the effects of a \$1 reduction in benefits for each \$2 of earnings. It would require that SSA conduct the demonstrations on a wide enough scale, and for a long enough period, to permit valid analysis of the results. CBO assumed that, to comply with those criteria, the demonstrations would have to include perhaps half a dozen small states, that the intake phase of the project would have to last three or four years to permit observation of the expected induced filers and that the incentives themselves would have to be promised to the beneficiaries for an indefinite period. Because the demonstrations would pose formidable issues of design and administration, CBO assumes they would not get under way until 2001. CBO also assumes that the demonstration would be conducted in areas

with and without the tickets to work and self-sufficiency, to enable the effect of the incentives to be isolated from the effects of the new VR program. Even a relatively small-scale demonstration might thereby apply to approximately 2 percent to 3 percent of the nation. Multiplying that percentage times the DI benefit costs contained in the Actuaries' 1994 memo suggests that the demonstration would, after intake is complete, cost almost \$20 million in extra DI benefits a year. It would also lead to slightly higher Medicare costs, since the induced filers would qualify for Medicare after two years on the DI rolls. Finally, CBO assumes that running the demonstrations and collecting and analyzing data would be handled by an expert contractor, at a cost of several million dollars a year. In sum, the \$1-for-\$2 demonstration projects mandated by the bill are estimated to cost \$190 million over the 2001-2008 period.

Extended Medicare Coverage (Section 3). As noted before, DI recipients who give up their cash benefits because of earnings can continue to get Medicare for 3 years. H.R. 3433 proposes to lengthen that period to 5 years. The extended coverage would only be available to beneficiaries who had registered a ticket with a VR provider. Furthermore, the coverage would expire 7 years after enactment (that is, in September 2005, under CBO's assumption).

Since CBO assumes that the first batch of VR clients under the new tickets program would be suspended in 2002, their 3-year period of extended Medicare eligibility under current law would expire in 2005. Therefore, the proposed extension would expire before it would have significant costs. CBO assumes costs of just \$1 million in 2005.

Other Provisions. The other provisions of H.R. 3433 are mostly technical corrections and clarifications to the Social Security Act. Those technical corrections have passed the House twice previously, in September 1996 (H.R. 4039) and April 1997 (H.R. 1048). As pointed out in previous CBO estimates, most do not have budgetary implications. Three sections do have budgetary effects.

Demonstration Project Authority (Section 5). SSA has the authority to conduct certain research and demonstration projects that occasionally require waivers of provisions of Title II of the Social Security Act. That waiver authority expired on June 10, 1996. This bill would extend it until June 10, 2001. This extension would be the fifth since the waiver authority was enacted in 1980. This general waiver authority should not be confused with the so-called \$1-for-\$2 demonstrations that would be required by Section 2 of this bill; those demonstrations are costlier and longer-lasting than the modest projects that SSA would likely conduct on its own.

When the waiver authority has been in effect, SSA has generally spent between \$2 million and \$4 million annually on the affected projects. Because the proposed extension would be for 3 years, CBO judges that it would lead to outlays of \$15 million, chiefly in fiscal years 2000 and 2001.

Provisions Affecting Prisoners (Section 7). H.R. 3433 would also strengthen restrictions on the payment of Social Security benefits to prisoners. Current law sets strict limits on the payment of SSI benefits to incarcerated people and somewhat milder limits on payments of OASDI. SSI recipients who are in prison for a full month—regardless of whether they are convicted—are to have their

benefits suspended while they are incarcerated. OASDI recipients who have been convicted of an offense carrying a maximum sentence of 1 year or more are to have their benefits suspended. Those who are convicted of lesser crimes, and those who are in jail awaiting trial, may still collect OASDI benefits. Those provisions are enforced chiefly by an exchange of computerized data between the Social Security Administration and the Federal Bureau of Prisons, state prisons, and some county jails. Those agreements are voluntarily and, until recently, involved no payments to the institutions.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 changed that arrangement by directing SSA to pay institutions for reporting information that led to the identification of ineligible SSI recipients. The payment is \$400 if the institution reports information within 30 days of confinement and \$200 if the report is made 30 to 90 days after confinement. The law also exempts matching agreements between SSA and correctional institutions from certain provisions of the Privacy Act.

This bill would establish analogous arrangements for the OASDI Program. It would also drop the requirement that OASDI benefits be suspended only if the maximum sentence for the offense is 1 year or more. (A conviction would still be required; inmates who are in jail while they await trial could continue to collect benefits.) CBO estimated the effects of this provision, like its predecessor in the welfare reform law, by analyzing data from several sources that suggest about 4 percent to 5 percent of prisoners were receiving Social Security, SSI benefits, or both before incarceration. Reports from SSA's Inspector General showed that some of those prisoners were overlooked under matching arrangements either because their institution had not signed an agreement, had not renewed it promptly, or did not submit data on schedule.

CBO estimates that, over the 1999–2003 period, the provision in H.R. 3433 would lead to payments of \$32 million to correctional institutions out of the OASDI trust funds and benefit savings of \$69 million, for a net saving of \$37 million. CBO also expects that the broader arrangement, by doubling the pool of potential payments, would encourage more correctional institutions to submit information accurately and promptly and would therefore lead to spillover savings in the SSI program amounting to nearly \$30 million over the 1999–2003 period.

Open Season for Clergy to Enroll in Social Security (Section 8). Under current law, ministers of a church are generally treated as self-employed individuals for the purpose of the Social Security payroll tax. However, ministers who are opposed to participating in the program on religious principles may reject coverage by filing with the Internal Revenue Service before the tax filing date for their second year of work in the ministry. H.R. 3433 would give those ministers a chance to revoke their exemptions. It would give them a two-year window—ending on the tax filing deadline for the second taxable year beginning after December 31, 1998—to exercise that option.

In 1977 and 1986, the clergy were offered a similar opportunity to opt back into Social Security. Based on that experience, CBO estimates that about 3,500 ministers would take advantage of the opportunity. CBO estimates that the clergy who elect coverage would

pay about \$3 million in Social Security (OASDI) taxes, which are off-budget, in 1999 and \$10 million a year thereafter. They would also pay Hospital Insurance (HI) taxes, which are on-budget, of about \$2 million a year. Finally, income tax revenues would drop slightly because, as self-employed individuals, ministers paying Social Security could deduct a portion of that tax when computing income tax.

**Pay-as-you-go considerations:** The Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting direct spending or receipts. The projected changes in direct spending are shown in the table below for fiscal years 1999–2008. Only changes affecting on-budget outlays and receipts (that is, those in non-Social Security programs) affect the pay-as-you-go scorecard. For purposes of enforcing pay-as-you-go procedures, only the effects in the current year, budget year, and the succeeding four years are counted.

TABLE 3.—SUMMARY OF PAY-AS-YOU-GO EFFECTS OF H.R. 3433

	By fiscal years, in millions of dollars—									
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Change in outlays .....	-1	-5	-6	-6	-6	-7	-9	-14	-22	-35
Change in receipts .....	(1)	1	1	1	1	1	1	1	1	1

<sup>1</sup> Less than \$500,000.

Note.—components may not sum to totals due to rounding.

Social Security outlays and receipts do not appear on the pay-as-you-go scorecard, but the House of Representatives tracks them separately. That tally includes effects only for the year in which the legislation takes effect and the four subsequent years; for H.R. 3433, the relevant years are 1998 through 2002. It also includes balances carried over from laws enacted in previous years, such as the Contract with America Advancement Act (Public Law 104–121) enacted in 1996. Under the rules of the House, the Social Security scorecard includes only tax receipts and benefit outlays of the Social Security trust funds. Therefore, outlays for purposes other than benefits—such as the payments to VR providers and to prison officials that would occur under H.R. 3433—do not appear on the scorecard.

TABLE 4.—CBO ESTIMATE OF CURRENT STATUS OF THE SOCIAL SECURITY SCORECARD IN THE HOUSE OF REPRESENTATIVES

	By fiscal years, in millions of dollars—				
	1998	1999	2000	2001	2002
<b>Scorecard at state of 1998:</b>					
OASDI taxes .....	146	80			
OASDI benefits .....	-77	-114	75		
Net effect .....	223	194	-75		
<b>Ticket to Work and Self-Sufficiency Act of 1998 (H.R. 3433):</b>					
OASDI taxes .....		8	9	9	9
OASDI benefits .....	0	-3	-13	-11	-12
Net effect .....	0	11	22	20	21
<b>Scorecard assuming enactment of H.R. 3433:</b>					
OASDI taxes .....	146	88	9	9	9

TABLE 4.—CBO ESTIMATE OF CURRENT STATUS OF THE SOCIAL SECURITY SCORECARD IN THE HOUSE OF REPRESENTATIVES—Continued

	By fiscal years, in millions of dollars—				
	1998	1999	2000	2001	2002
OASDI benefits .....	-77	-117	62	-11	-12
Net effect .....	223	205	-53	20	21

Note.—Components may not sum to totals due to rounding.

Estimated impact on State, local, and tribal governments: H.R. 3433 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Although state VR agencies would lose their monopoly—or, technically, their “right of first refusal”—to serve SSA clients, the budgetary impact of this change would be minimal. In addition, state and local prisons would collect additional payments for providing certain computerized data to SSA that CBO estimates would total \$35 million over the 1999–2003 period.

Estimated impact on the private sector: H.R. 3433 contains no private-sector mandates as defined in UMRA.

Estimate prepared by: Federal cost: Kathy Ruffing. Impact on State, Local, and Tribal Governments: Marc Nicole. Impact on the Private Sector: Ralph Smith.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

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

### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the need for legislation was confirmed through its ongoing oversight of the Social Security Administration and the Social Security programs.

### B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE

In compliance with clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that no oversight findings and recommendations have been submitted to this Committee by the Committee on Government Reform and Oversight with respect to the provisions contained in this bill.

### C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee’s action in reporting the bill is derived from Article I of the Constitution, Section 8 (“The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for \* \* \* the general Welfare of the United States \* \* \*”).

## VI. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT

Pursuant to the Federal Advisory Committee Act (5 U.S.C., App., section 5(b)), the Committee states that any advisory bodies created by the bill, such as the Ticket to Work and Self-Sufficiency Advisory Panel are consciously created, and are deemed appropriate and necessary to carry out the purposes of the bill. It is the view of the Committee that the functions of any such advisory bodies are not being and could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee.

## VII. CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### SOCIAL SECURITY ACT

\* \* \* \* \*

#### TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

##### FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND FEDERAL DISABILITY INSURANCE TRUST FUND

##### SEC. 201. (a) \* \* \*

\* \* \* \* \*

##### Mother's and Father's Insurance Benefits

(g)(1)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall include also the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the Trust Funds into the Treasury—

(i) \* \* \*

(ii) the amounts estimated (pursuant to the applicable method prescribed under paragraph (4) of this subsection) by the Commissioner of Social Security which will be expended, out of moneys made available for expenditures from the Trust Funds, during such three-month period to cover the cost 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) *and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.*

Such payments shall be carried into the Treasury as the net amount of repayments due the general fund account for reimbursement of expenses incurred in connection with the administration of titles II and XVIII of this Act and chapters 2 and 21 of the Internal Revenue Code of 1986. A final accounting of such payments for any fiscal year shall be made at the earliest practicable date after the close thereof. 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. Of the amounts authorized to be made available out of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under the preceding sentence, there are hereby authorized to be made available from either or both of such Trust Funds for continuing disability reviews—

- (i) for fiscal year 1996, \$260,000,000;
- (ii) for fiscal year 1997, \$360,000,000;
- (iii) for fiscal year 1998, \$570,000,000;
- (iv) for fiscal year 1999, \$720,000,000;
- (v) for fiscal year 2000, \$720,000,000;
- (vi) for fiscal year 2001, \$720,000,000; and
- (vii) for fiscal year 2002, \$720,000,000.

For purposes of this subparagraph, the term “continuing disability review” means a review conducted pursuant to section 221(i) and a review or disability eligibility redetermination conducted to determine the continuing disability and eligibility of a recipient of benefits under the supplemental security income program under title XVI, including any review or redetermination conducted pursuant to section 207 or 208 of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons’ representative payee.

(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)],] subparagraph (A)) and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons

*entitled to such benefits or such persons' representative payee, which should have been borne by the general fund of the Treasury,*

\* \* \* \* \*

(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) \* \* \*

\* \* \* \* \*

(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)) *and the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee.*

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 *and the functions of the Social Security Administration in connection with the withholding of taxes from benefits as described in section 207(c)* shall be made pursuant to the applicable method prescribed under paragraph (4).

\* \* \* \* \*

(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)). *The Board of Trustees of such Trust Funds shall prescribe the method of determining the*



costs which should be borne by the general fund in the Treasury of carrying out the functions of the Social Security Administration in connection with the withholding of taxes from benefits, as described in section 207(c), pursuant to requests by persons entitled to such benefits or such persons' representative payee. 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.

\* \* \* \* \*

#### AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

##### Old Age Insurance Benefits

SEC. 202. (a) \* \* \*

\* \* \* \* \*

#### Limitation on Payments to Prisoners and Certain Other Inmates of Publicly Funded Institutions

(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month [during] *throughout* which such individual—

(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of [an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed) *a criminal offense*, [or]

(ii) is confined by court order in an institution at public expense in connection with—

(I) a verdict or finding that the individual is guilty but insane, with respect to [an offense punishable by imprisonment for more than 1 year] *a criminal offense*,

(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence)[.], or

(iii) *immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.*

(B)(i) \* \* \*

(ii) For purposes of [clause (ii)] *clauses (ii) and (iii)* of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

(I) he or she is released from the care and supervision of such institution, and

(II) such institution ceases to meet the individual's basic living needs.

\* \* \* \* \*

(3)(A) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law, any agency of the United States Government or of any State (or political subdivision thereof) shall make available to the Commissioner of Social Security, upon written request, the name and social security account number of any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.

(B)(i) *The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—*

*(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1); and*

*(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual's confinement in such institution begins, or \$200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.*

*(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).*

*(iii) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.*

*(iv) There is authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II). Sums so transferred shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 and excluded from budget totals in accordance with section 13301 of the Budget Enforcement Act of 1990.*

(v) *The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.*

\* \* \* \* \*

ASSIGNMENT

SEC. 207. (a) \* \* \*

\* \* \* \* \*

(c) *Nothing in this section shall be construed to prohibit withholding taxes from any benefit under this title, if such withholding is done pursuant to a request made in accordance with section 3402(p)(1) of the Internal Revenue Code of 1986 by the person entitled to such benefit or such person's representative payee.*

\* \* \* \* \*

DISABILITY DETERMINATIONS

SEC. 221. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

\* \* \* \* \*

(4) *For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).*

REHABILITATION SERVICES

**[Referral for Rehabilitation Services**

SEC. 222. [(a) It is hereby declared to be the policy of the Congress that disabled individuals applying for a determination of disability, and disabled individuals who are entitled to child's insurance benefits, widow's insurance benefits, or widower's insurance benefits, shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 for necessary vocational rehabilitation services, to the end that the maximum number of such individuals may be rehabilitated into productive activity.

**[Deductions on Account of Refusal To Accept Rehabilitation Services**

[(b)(1) Deductions, in such amounts and at such time or times as the Commissioner of Social Security shall determine, shall be made from any payment or payments under this title to which an individual is entitled, until the total of such deductions equals such individual's benefit or benefits under sections 202 and 223 for any month in which such individual, if a child who has attained the age of eighteen and is entitled to child's insurance benefits, a widow, widower, surviving divorced wife, or surviving divorced husband who has not attained age 60, or an individual entitled to disability

insurance benefits, refuses without good cause to accept rehabilitation services available to him under a State plan approved under title I of the Rehabilitation Act of 1973. Any individual who is a member or adherent of any recognized church or religious sect which teaches its members or adherents to rely solely, in the treatment and cure of any physical or mental impairment, upon prayer or spiritual means through the application and use of the tenets or teachings of such church or sect, and who, solely because of his adherence to the teachings or tenets of such church, or sect, refuses to accept rehabilitation services available to him under a State plan approved under title I of the Rehabilitation Act of 1973, shall, for the purposes of the first sentence of this subsection, be deemed to have done so with good cause.

[(2) Deductions shall be made from any child's insurance benefit to which a child who has attained the age of eighteen is entitled or from any mother's or father's insurance benefit to which a person is entitled, until the total of such deductions equals such child's insurance benefit or benefits or such mother's or father's insurance benefit or benefits under section 202 for any month in which such child or person entitled to mother's or father's insurance benefits is married to an individual who is entitled to disability insurance benefits and in which such individual refuses to accept rehabilitation services and a deduction, on account of such refusal, is imposed under paragraph (1). If both this paragraph and paragraph (3) are applicable to a child's insurance benefit for any month, only an amount equal to such benefit shall be deducted.

[(3) Deductions shall be made from any wife's, husband's, or child's insurance benefit, based on the wages and self-employment income of an individual entitled to disability insurance benefits, to which a wife, divorced wife, husband, divorced husband, or child is entitled, until the total of such deductions equals such wife's, husband's, or child's insurance benefit or benefits under section 202 for any month in which the individual, on the basis of whose wages and self-employment income such benefit was payable, refuses to accept rehabilitation services and deductions, on account of such refusal, are imposed under paragraph (1).

[(4) The provisions of paragraph (1) shall not apply to any child entitled to benefits under section 202(d), if he has attained the age of 18 but has not attained the age of 22, for any month during which he is a full-time elementary or secondary school student (as defined and determined under section 202(d)).]

\* \* \* \* \*

#### ADDITIONAL RULES RELATING TO BENEFITS BASED ON DISABILITY

##### Suspension of Benefits

SEC. 225. (a) \* \* \*

##### Continued Payments During Rehabilitation Program

(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the

individual's entitlement to such benefits is based, has or may have ceased, if—

(1) such individual is participating in [a program of vocational rehabilitation services] *a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security, and*

\* \* \* \* \*

ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS

SEC. 226. (a) \* \* \*

(b) Every individual who—

(1) \* \* \*

\* \* \* \* \*

shall be entitled to hospital insurance benefits under part A of title XVIII for each month beginning with the later of (I) July 1973 or (II) the twenty-fifth month of his entitlement or status as a qualified railroad retirement beneficiary described in paragraph (2), and ending (subject to the last sentence of this subsection) with the month following the month in which notice of termination of such entitlement to benefits or status as a qualified railroad retirement beneficiary described in paragraph (2) is mailed to him, or if earlier, with the month before the month in which he attains age 65. In applying the previous sentence in the case of an individual described in paragraph (2)(C), the "twenty-fifth month of his entitlement" refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and "notice of termination of such entitlement" refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph. For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months [throughout all of which] *throughout the first 24 months of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months (plus 24 additional such months in the case of an individual who the Commissioner determines is using a ticket to work and self-sufficiency issued under section 1147, but only for additional months that occur in the 7-year period beginning on the date of the enactment of the Ticket to Work and Self-Sufficiency Act of 1998).* In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term "36 months" in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section

202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read "15 months".

\* \* \* \* \*

TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION

\* \* \* \* \*

PART A—GENERAL PROVISIONS

\* \* \* \* \*

COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS

SEC. 1110. (a)(1) \* \* \*

\* \* \* \* \*

(3) Grants and payments under contracts or cooperative arrangements under paragraph (1) may be made either in advance or by way of reimbursement, as may be determined by the Secretary (or the Commissioner, with respect to any jointly financed cooperative agreement or grant concerning title II or XVI); and shall be made in such installments and on such conditions as the Secretary (or the Commissioner, as applicable) finds necessary to carry out the purposes of this subsection.

\* \* \* \* \*

THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

SEC. 1147. (a) *IN GENERAL.*—The Commissioner of Social Security shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

(b) *TICKET SYSTEM.*—

(1) *DISTRIBUTION OF TICKETS.*—The Commissioner of Social Security may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

(2) *ASSIGNMENT OF TICKETS.*—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

(3) *TICKET TERMS.*—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

(4) *PAYMENTS TO EMPLOYMENT NETWORKS.*—The Commissioner shall pay an employment network under the Program in

accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

(c) **STATE PARTICIPATION.—**

(1) **PERIODIC ELECTIONS.—**Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 may elect to participate in the Program (or to revoke any such election) as an employment network. The Commissioner shall provide for periodic opportunities for exercising such elections (and revocations).

(2) **TREATMENT OF STATE AGENCIES.—**Any such election (or revocation) by a State agency described in paragraph (1) taking effect during any period for which an individual residing in the State is a disabled beneficiary and a client of the State agency shall not be effective with respect to such individual to the extent that such election (or revocation) would result in any change in the method of payment to the State agency with respect to the individual from the method of payment to the State agency with respect to the individual in effect immediately before such election (or revocation).

(3) **EFFECT OF PARTICIPATION BY STATE AGENCY.—**

(A) **STATE AGENCIES PARTICIPATING.—**In any case in which a State agency described in paragraph (1) elects under paragraph (1) to participate in the Program—

(i) the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, and

(ii) the provisions of section 222(d) and the provisions of subsections (d) and (e) of section 1615 shall not apply with respect to such State.

(B) **STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—**Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

(4) **SPECIAL REQUIREMENTS APPLICABLE TO CROSS-REFERRAL TO CERTAIN STATE AGENCIES.—**

(A) **IN GENERAL.—**In any case in which an employment network has been assigned a ticket to work and self-sufficiency by a disabled beneficiary, no State agency shall be deemed required, under this section, title I of the Rehabilitation Act of 1973, or a State plan approved under such title, to accept any referral of such disabled beneficiary from such employment network unless such employment network and such State agency have entered into a written agreement that meets the requirements of subparagraph (B).

(B) *TERMS OF AGREEMENT.*—An agreement required by subparagraph (A) shall specify, in accordance with regulations prescribed pursuant to subparagraph (C)—

(i) the extent (if any) to which the employment network holding the ticket will provide to the State agency—

(I) reimbursement for costs incurred in providing services described in subparagraph (A) to the disabled beneficiary, and

(II) other amounts from payments made by the Commissioner to the employment network pursuant to subsection (h), and

(ii) any other conditions that may be required by such regulations.

(C) *REGULATIONS.*—The Commissioner of Social Security and the Secretary of Education shall jointly prescribe regulations specifying the terms of agreements required by subparagraph (A) and otherwise necessary to carry out the provisions of this paragraph.

(D) *PENALTY.*—No payment may be made to an employment network pursuant to subsection (h) in connection with services provided to any disabled beneficiary if such employment network makes referrals described in subparagraph (A) in violation of the terms of the contract required under subparagraph (A) or without having entered into such a contract.

(d) *RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.*—

(1) *SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.*—The Commissioner of Social Security shall enter into agreements with one or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

(2) *TENURE, RENEWAL, AND EARLY TERMINATION.*—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include (but are not limited to)—

(A) measures for ease of access by beneficiaries to services, and

(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

(3) *PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.*—Agreements under paragraph (1) shall preclude—

(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation



services, or other support services to beneficiaries in the service area covered by the program manager's agreement, and

(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

(4) **SELECTION OF EMPLOYMENT NETWORKS.**—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

(5) **TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.**—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

(6) **QUALITY ASSURANCE.**—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall take into account the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure the performance of periodic surveys of beneficiaries receiving services under the Program designed to measure customer service satisfaction.

(7) **DISPUTE RESOLUTION.**—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks and between program managers and employment networks. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

(e) **PROGRAM MANAGERS.**—

(1) **IN GENERAL.**—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

(2) **RECRUITMENT OF EMPLOYMENT NETWORKS.**—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this sec-

tion is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

(3) **FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.**—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks for good cause, as determined by the Commissioner, without being deemed to have rejected services under the Program. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible format.

(4) **ENSURING AVAILABILITY OF ADEQUATE SERVICES.**—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

(5) **REASONABLE ACCESS TO SERVICES.**—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Such services may include case management, benefits counseling, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are coordinated.

(f) **EMPLOYMENT NETWORKS.**—

(1) **QUALIFICATIONS FOR EMPLOYMENT NETWORKS.**—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, which assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b). No employment network may serve under the Program unless it demonstrates to the Commissioner substantial expertise and experience in the field of employment services, vocational rehabilitation services, or other support services for individuals with disabilities and provides an array of such services. An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other indi-

viduals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

(2) **REQUIREMENTS RELATING TO PROVISION OF SERVICES.**—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

(A) serve prescribed service areas,

(B) meet, and maintain compliance with, both general selection criteria (such as professional and governmental certification and educational credentials) and specific selection criteria (such as the extent of work experience by the provider with specific populations), and

(C) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans meeting the requirements of subsection (g).

(3) **ANNUAL FINANCIAL REPORTING.**—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

(4) **PERIODIC OUTCOMES REPORTING.**—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network pertaining to the beneficiary. The program manager shall ensure that copies of all such reports issued under this paragraph are made available to the public under reasonable terms.

(g) **INDIVIDUAL WORK PLANS.**—

(1) **IN GENERAL.**—Each employment network shall—

(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans as defined by the Commissioner, and

(B) develop and implement each such individual work plan, in the case of each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

A beneficiary's individual work plan shall take effect upon approval by the beneficiary.

(2) **VOCATIONAL EVALUATION.**—In devising the work plan, the employment network shall undertake a vocational evaluation

with respect to the beneficiary. Each vocational evaluation shall set forth in writing such elements and shall be in such format as the Commissioner shall prescribe. The Commissioner may provide for waiver by the beneficiary of such a vocational evaluation, subject to regulations which shall be prescribed by the Commissioner providing for the permissible timing of, and the circumstances permitting, such a waiver.

(h) **EMPLOYMENT NETWORK PAYMENT SYSTEMS.—**

(1) **ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—**

(A) **IN GENERAL.—**The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

(B) **METHOD OF PAYMENT TO EMPLOYMENT NETWORKS.—**Any such election by an employment network taking effect during any period for which a disabled beneficiary is receiving services from such employment network shall not be effective with respect to such beneficiary to the extent that such election would result in any change in the method of payment to the employment network with respect to services provided to such beneficiary from the method of payment to the employment network with respect to services provided to such beneficiary as of immediately before such election.

(2) **OUTCOME PAYMENT SYSTEM.—**

(A) **IN GENERAL.—**The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

(B) **PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—**The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual.

(C) **COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—**The payment schedule of the outcome payment system shall be designed so that—

(i) the payment for each of the 60 months during the outcome payment period for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs, and

(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

(3) **OUTCOME-MILESTONE PAYMENT SYSTEM.—**

(A) *IN GENERAL.*—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

(B) *EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.*—The outcome-milestone payment system shall provide for one or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, which are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure which provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

(C) *LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.*—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

(4) *DEFINITIONS.*—For purposes of this subsection—

(A) *PAYMENT CALCULATION BASE.*—The term “payment calculation base” means, for any calendar year—

(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year, and

(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained at least 18 years of age.

(B) *OUTCOME PAYMENT PERIOD.*—The term “outcome payment period” means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (2) and (3) of subsection (k)) are not payable to such individual by reason of engagement in work activity, and

(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in work activity.

(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

(A) PERCENTAGES AND PERIODS.—*The Commissioner of Social Security shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner's review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.*

(B) NUMBER AND AMOUNT OF MILESTONE PAYMENTS.—*The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Self-Sufficiency Advisory Panel, or other reliable sources.*

(i) SUSPENSION OF DISABILITY REVIEWS.—*During any period for which an individual is using a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.*

(j) AUTHORIZATIONS.—

(1) TITLE II DISABILITY BENEFICIARIES.—*There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to carry out the provisions of this section with respect to title II disability beneficiaries. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged*

to the Federal Old-Age and Survivors Insurance Trust Fund. The Commissioner of Social Security shall determine according to such methods and procedures as shall be prescribed under this section—

(A) the total amount to be paid to program managers and employment networks under this section, and

(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

(2) **TITLE XVI DISABILITY BENEFICIARIES.**—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

(k) **DEFINITIONS.**—For purposes of this section—

(1) **DISABLED BENEFICIARY.**—The term “disabled beneficiary” means a title II disability beneficiary or a title XVI disability beneficiary.

(2) **TITLE II DISABILITY BENEFICIARY.**—The term “title II disability beneficiary” means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

(3) **TITLE XVI DISABILITY BENEFICIARY.**—The term “title XVI disability beneficiary” means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

(4) **SUPPLEMENTAL SECURITY INCOME BENEFIT.**—The term “supplemental security income benefit under title XVI” means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

(l) **REGULATIONS.**—The Commissioner of Social Security shall prescribe such regulations as are necessary to carry out the provisions of this section.

\* \* \* \* \*

**TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

\* \* \* \* \*

PART A—DETERMINATION OF BENEFITS  
ELIGIBILITY FOR AND AMOUNT OF BENEFITS

Definition of Eligible Individual

SEC. 1611. (a) \* \* \*

\* \* \* \* \*

(e)(1)(A) Except as provided in subparagraphs (B), (C), (D), (E), and (G), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

\* \* \* \* \*

(I)(i) The Commissioner shall enter into an agreement, with any interested State or local [institution described in clause (i) or (ii) of section 202(x)(1)(A) the primary purpose of which is to confine individuals as described in section 202(x)(1)(A),] *institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii),* under which—

(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out this paragraph; and

(II) the Commissioner shall pay to any such institution, with respect to each individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 202(x)(1)(A)(ii), a benefit under this title for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this title by reason of confinement based on the information provided by such institution, \$400 (*subject to reduction under clause (ii)*) if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after the date such individual becomes an inmate of such institution, or \$200 (*subject to reduction under clause (ii)*) if the institution furnishes such information after 30 days after such date but within 90 days after such date.

*(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B).*

[(ii)] (iii)(I) The provisions of section 552a of title 5, United States Code, shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.



(II) The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility purposes.

[(iii)] (iv) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this title and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

\* \* \* \* \*

REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

[SEC. 1615. (a) In the case of any blind or disabled individual who—

- [(1) has not attained age 65, and
- [(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, or, in the case of any such individual who has not attained age 16, to the State agency administering the State program under title V, and (except for individuals who have not attained age 16 and except in such other cases as the Commissioner may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.]

*SEC. 1615. (a) In the case of any blind or disabled individual who—*

- (1) has not attained age 16, and*
  - (2) with respect to whom benefits are paid under this title,*
- the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.*

\* \* \* \* \*

[(c) Every individual age 16 or over with respect to whom the Commissioner of Social Security is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under title I of the Rehabilitation Act of 1973; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which the Commissioner is referred under subsection (a).]

\* \* \* \* \*

## PART B—PROCEDURAL AND GENERAL PROVISIONS

## PAYMENTS AND PROCEDURES

## Payment of Benefits

SEC. 1631. (a)(1) \* \* \*

\* \* \* \* \*

(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the blindness or other physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

(A) such individual is participating in [a program of vocational rehabilitation services] *a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1147 or another program of vocational rehabilitation services, employment services, or other support services* approved by the Commissioner of Social Security, and,

\* \* \* \* \*

## ADMINISTRATION

SEC. 1633. (a) \* \* \*

\* \* \* \* \*

(c)(1) In any case in which the Commissioner of Social Security initiates a review under this title, similar to the continuing disability reviews authorized for purposes of title II under section 221(i), the Commissioner of Social Security shall notify the individual whose case is to be reviewed in the same manner as required under section 221(i)(4).

(2) *For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1147(i).*

\* \* \* \* \*

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**SECTION 105 OF THE CONTRACT WITH AMERICA  
ADVANCEMENT ACT OF 1996**
**SEC. 105. DENIAL OF DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.**

(a) AMENDMENTS RELATING TO TITLE II DISABILITY BENEFITS.—

(1) \* \* \*

\* \* \* \* \*

(5) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (4) shall apply to any individual who applies for, or whose claim is finally adjudicated [by the Commissioner of Social Security] with respect to, benefits under title II of the Social Security Act based on disability on or after the date

of the enactment of this Act, and, in the case of any individual who has applied for, and whose claim has been finally adjudicated [by the Commissioner] with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

[(B) The amendments made by paragraphs (2) and (3) shall apply with respect to benefits for which applications are filed after the third month following the month in which this Act is enacted.]

*(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—*

*(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act, or*

*(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).*

\* \* \* \* \*

*(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II of the Social Security Act based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—*

*(i) there is pending a request for either administrative or judicial review with respect to such claim, or*

*(ii) there is pending, with respect to such claim, a re-adjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.*

*(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) of the Social Security Act shall not apply to such redetermination.*

\* \* \* \* \*

## SECTION 505 OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

### AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of dis-

abled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act. *The Commissioner may expand the scope of any such demonstration project to include any group of applicants for benefits under such program with impairments which may reasonably be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.*

\* \* \* \* \*

(3) In the case of any experiment or demonstration project under paragraph (1) which is initiated before June 10, [1996] 2001, 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. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) On or before June 9 in 1986 and each of the succeeding years through 1995, and on or before October 1, 2000, the Commissioner shall submit to the Congress an interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Commissioner may consider appropriate.

\* \* \* \* \*

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted

under section 5120 of the Omnibus Budget Reconciliation of 1990)  
no later than October 1, [1996] 2001.

\* \* \* \* \*

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# House Calendar No. 198

105TH CONGRESS  
2D SESSION

## H. RES. 450

[Report No. 105-553]

Providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses.

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### IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1998

Mrs. MYRICK, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

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## RESOLUTION

Providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses.

1       *Resolved*, That upon the adoption of this resolution  
2 it shall be in order without intervention of any point of  
3 order to consider in the House the bill (H.R. 3433) to  
4 amend the Social Security Act to establish a Ticket to  
5 Work and Self-Sufficiency Program in the Social Security  
6 Administration to provide beneficiaries with disabilities  
7 meaningful opportunities to return to work and to extend  
8 Medicare coverage for such beneficiaries, and to amend  
9 the Internal Revenue Code of 1986 to provide a tax credit  
10 for impairment-related work expenses. The bill shall be  
11 considered as read for amendment. The amendment rec-  
12 ommended by the Committee on Ways and Means now  
13 printed in the bill shall be considered as adopted, modified  
14 by the amendment printed in the report of the Committee  
15 on Rules accompanying this resolution. The previous ques-  
16 tion shall be considered as ordered on the bill, as amended,  
17 and on any further amendment thereto to final passage  
18 without intervening motion except: (1) one hour of debate  
19 on the bill, as amended, equally divided and controlled by  
20 the chairman and ranking minority member of the Com-  
21 mittee on Ways and Means; (2) a further amendment  
22 printed in the Congressional Record pursuant to clause  
23 6 of rule XXIII, if offered by Representative Rangel of  
24 New York or his designee, which shall be considered as  
25 read and shall be separately debatable for one hour equally



- 1 divided and controlled by the proponent and an opponent;
- 2 and (3) one motion to recommit with or without instruc-
- 3 tions.

**House Calendar No. 198**

105TH CONGRESS  
2D SESSION

**H. RES. 450**

**[Report No. 105-553]**

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**RESOLUTION**

Providing for consideration of the bill (H.R. 3433) to amend the Social Security Act to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide beneficiaries with disabilities meaningful opportunities to return to work and to extend Medicare coverage for such beneficiaries, and to amend the Internal Revenue Code of 1986 to provide a tax credit for impairment-related work expenses.

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MAY 22, 1998

Referred to the House Calendar and ordered to be printed



# LEGISLATIVE BULLETIN

SOCIAL SECURITY  
ADMINISTRATION

106-4

April 16, 1999

## Senate Finance Committee Reports S. 331, the Work Incentives Improvements Act of 1999

On March 26, 1999, the Senate Committee on Finance amended and favorably reported S. 331, the Work Incentives Improvements Act of 1999, to the full Senate. This bill addresses barriers to work for individuals with disabilities. It would: expand the availability of health care coverage for working individuals with disabilities; establish a Ticket to Work and Self-Sufficiency Program; and provide such individuals with meaningful opportunities to work.

The bill contains the following provisions:

### Expanded Availability of Health Care Services

#### State Options under Medicaid

- o Would expand the States options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide opportunity for employed individuals with medically determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) due to medical improvement.

Would be applicable with respect to medical assistance for items and services furnished on or after October 1, 1999.

#### Continuation of Medicare Coverage

- o Would extend premium-free Medicare coverage for people with disabilities who return to work during a 10-year period beginning with the first month that begins after enactment. Further, it would extend coverage for subsequent months if they are entitled to health care benefits as of the last month of the

10-year period. It also would require GAO to examine the effectiveness and cost of providing such premium-free Medicare coverage and to recommend whether such coverage should be continued after the 10-year period.

Would be applicable for months beginning with the first month that begins after the date of enactment.

### Responsibilities of the Secretary of Health and Human Services

- o Would direct the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits.

Would be effective upon enactment.

### **Ticket to Work and Self-Sufficiency Program**

#### General

- o Would direct the Commissioner to establish a Ticket to Work and Self-Sufficiency Program (Program) which would provide SSDI beneficiaries and SSI disability recipients with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, or other support services from an employment network of their choice.

### Responsibilities of the Commissioner of Social Security

- o Would select and enter into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Would terminate agreements with program manager(s) who fail to meet the performance standards specified in the agreements.

- o Would preclude program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program manager's agreement.
- o Would select, and enter into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Would terminate agreements with employment networks whose performance is inadequate.
- o Would provide for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Would provide for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

Responsibilities of the Program Manager(s)

- o Would perform such tasks as assigned by the Commissioner.
- o Would recruit, and recommend for selection by the Commissioner, employment networks which can provide services under the Program.
- o Would monitor employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Would ensure that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Would ensure beneficiaries are allowed changes in employment networks for good cause without being deemed to have rejected services under the Program.

## Employment Network(s)

- o Would assume responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- o Would provide services either directly or by entering into agreements with other providers which can furnish appropriate services.
- o Would serve prescribed service areas and take measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Would meet the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- o Would develop and implement an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

## Employment Network Payment Systems

- o Would authorize the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network would be paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.

- The outcome-milestone payment system would combine outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network were paid under the outcome payment system.
- o Would require the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Would allow the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.

#### State Agency Participation

- o Would permit a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.
- o State VR agencies participating in the Program would provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Would require a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
  - Would direct the Commissioner and the Secretary of Education jointly to prescribe regulations specifying the terms of such agreements.
  - Would prohibit payment to an employment network if the employment network makes referrals to the State VR agency without entering into a written agreement with such State VR agency or in violation of the terms of the written agreement.



- o Would require the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

### Continuing Disability Reviews

- o Would prohibit the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

### Financing

- o Would require payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance Trust Funds (OASDI) in the case of title II disability beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses must be allocated as appropriate from amounts made available for the administration of title II and title XVI.

### Regulations

- o Would direct the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

Would be effective with the first month following 1 year after enactment.

### Reauthorization of Program

- o Would terminate the Program 5 years after the date the Commissioner begins implementation of the ticket program.
- o Would provide that individuals who initiated an individual work plan prior to such termination may receive services under the Program after this date.

Employment networks would be paid during the outcome payment period of such individuals.

### Scope of Program Implementation

- o Would direct the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Would require the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

### Evaluation

- o Would require the Commissioner to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program.
- o Would require the Commissioner to design and conduct a series of evaluations after consultation with work incentive experts, the Advisory Panel, GAO, other Federal agencies and private organizations with appropriate expertise.

### Reports

- o Would require the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports would be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

### Work Incentives Advisory Panel

- o Would establish a Work Incentives Advisory Panel within the Social Security Administration. The Panel would be composed of 12 members appointed by the Commissioner in consultation with the Speaker and the Minority Leader of the House of Representatives and the Majority and Minority Leader of the Senate; at least 7 members should be individuals with disabilities or representatives of individuals with disability, and at least 5 of those 7 members should be current or former title II or title XVI disability beneficiaries. Would require that members be appointed not later than 90 days after enactment.

Duties would include:

- Advising the Secretary of HHS, the Secretary of Labor, the Secretary of Education, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act.
- Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency on the following:
  - phase-in sites for implementation of the Program;
  - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
  - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings;
  - development of performance measures for the employment networks; and
  - furnishing progress reports on the Program to the Commissioner and Congress.
- o Would require the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
- o Would terminate the Panel 30 days after the date it submits its final report.
- o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

## **Elimination of Work Disincentives**

### **Work Activity Standard as a Basis for Review**

- o Would prohibit the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 or monthly insurance benefits under section 202 based on disability and have received such benefits for at least 24 months.
- o Would allow for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).

Would be effective upon enactment.

### **Expedited Reinstatement**

- o Would provide that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- o Would require that such individuals must have been unable to continue working on account of their medical condition and file a reinstatement request during the 60-month period following the month of termination.
- o Would require that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals will be eligible for the payment of provisional benefits for a period of not more than 6 months.
- o Would require that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.

Would be effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### **Work Incentive Outreach Program**

- o Would direct the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.
- o Under the Program, the Commissioner would be directed to:
  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information to disabled beneficiaries.
- o Would direct the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
- o Would provide that the costs must be paid from amounts made available for the administration for title II and title XVI, and shall be allocated from those amounts as appropriate.

Would be effective upon enactment.

### **Protection and Advocacy**

- o Would authorize the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment

would be required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.

- o Would provide that protection and advocacy systems be paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.
- o Would provide that payments must be made from amounts made available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- o Would provide that payments may not exceed \$7 million for fiscal year 2000, and such sums as may be necessary for any fiscal year thereafter.

Would be effective upon enactment.

### **Demonstration Projects and Studies**

#### **Permanent Disability Insurance Program Demonstration Project Authority**

- o Would: (1) permanently authorize section 505 of the Social Security Amendments of 1980 (Authority for Demonstration Projects), (2) direct the Commissioner to conduct demonstration related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income, and (3) permit presumptively eligible applicants to participate in demonstration projects.
- o Would direct the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.

Would be effective upon enactment.

#### **Reduction in Disability Benefits Based on Earnings**

- o Would direct the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.

- o Would provide that the demonstration projects should determine:
  - the effects, if any, of induced entry and reduced exit;
  - the effect, if any, on a project being conducted in a locality under the administration of the Ticket to Work and Self-Sufficiency Program; and,
  - the savings to the Trust Funds and other Federal programs as a result of the project.
- o Would require the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, the employment outcomes, the merits of trial work periods and periods of extended eligibility for each project.
- o Would authorize the Commissioner to waive compliance with the title II benefit provisions and the Secretary of Health and Human Services to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- o Would require the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, would require the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

### Funding

- o Would provide that expenditures made for the demonstration projects must be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

Would be effective upon enactment.

## Reports and Studies

- o Would require the General Accounting Office (GAO) to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A written report would be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
  - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report would be due not later than 3 years after the date of enactment; and
  - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A written report would be due not later than 2 years after the date of enactment of this Act.
- o Would direct the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.

Would be effective upon enactment.

## Technical Amendments

### Drug Addicts and Alcoholics (DA&A)

- o Would amend the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical



redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)

- o Would expand the applicability of the provisions in P.L. 104-121 which authorize the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.

Would be effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

### Treatment of Prisoners

- o Would extend the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program.

Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would eliminate the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year--like SSI, benefits would be suspended for any month throughout which the person was confined because of a crime or finding of not guilty by reason of insanity.

Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would provide that an institution does not get two incentive payments when the reported prisoner is a concurrent OASDI/SSI beneficiary--the programs would split the cost of the payment.

Would be effective as if included in enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

- o Would prohibit the payment of monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public

institution based on a finding that the individual is a sexually dangerous person or a sexual predator.

Would be effective with respect to benefits for months ending after the date of enactment.

#### Revocation by Members of the Clergy of Exemption from Social Security Coverage

- o Would create a 2-year window of opportunity to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption.

The application for revocation would have to be filed before the due date for the income tax return for the applicants second taxable year beginning after 12/31/99. The revocation would be effective, at the applicant's option, beginning with either the first or second taxable year beginning after 12/31/99.

#### Cooperative Research or Demonstration Projects Under Title II and Title XVI

- o Would clarify the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.

Would be effective as if included in the enactment of the Social Security Independence and Program Improvement Act of 1994 (P.L. 103-296).

#### Authorization for State to Permit Annual Wage Reports

- o Would authorize States to permit employers to submit wage reports of domestic workers on an annual basis.

Would be applicable to wage reports required to be submitted on or after the date of enactment.

#### Miscellaneous

- o The bill also contains several provisions related to the Internal Revenue Code of 1986.

# LEGISLATIVE BULLETIN

SOCIAL SECURITY  
ADMINISTRATION

106-7

May 28, 1999

## **House Committee on Commerce Approves H.R. 1180, the Work Incentives Improvement Act of 1999**

On May 19, 1999, the House Committee on Commerce favorably reported, by voice vote, H.R. 1180, as previously amended by the Subcommittee on Health and Environment.

H.R. 1180 is similar to Senate bill, S. 331 ("Work Incentives Improvement Act of 1999"), which has been reported by the Senate Committee on Finance and is awaiting action by the full Senate (see Legislative Bulletin 106-4). However, S.331 does not include the amendments in the Commerce Committee reported bill. These bills address barriers to work for individuals with disabilities. They would: expand the availability of health care coverage for working individuals with disabilities; establish a Ticket to Work and Self-Sufficiency Program; and provide such individuals with meaningful opportunities to work.

H.R. 1180, as reported by the House Committee on Commerce, is still subject to change because the House Committee on Ways and Means has not yet considered the bill.

The bill contains the following provisions:

### **Expanded Availability of Health Care Services**

#### State Options under Medicaid

- o Would expand, for individuals who are at least 16, but less than 65, years of age, the States options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide opportunity for employed individuals with medically

determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) due to medical improvement.

Would be applicable with respect to medical assistance for items and services furnished on or after October 1, 1999.

#### Continuation of Medicare Coverage

- o Would extend premium-free Medicare coverage for people with disabilities who return to work during a 10-year period beginning with the first month that begins after enactment. Further, it would extend coverage for subsequent months if they are entitled to health care benefits as of the last month of the 10-year period. It also would require GAO to examine the effectiveness and cost of providing such premium-free Medicare coverage and to recommend whether such coverage should be continued after the 10-year period.

Would be applicable for months beginning with the first month that begins after the date of enactment.

#### Responsibilities of the Secretary of Health and Human Services

- o Would direct the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits.

Would be effective upon enactment.

#### Election by Disabled Beneficiaries to Suspend Medigap Insurance

- o Would allow workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.

Would be applicable with respect to requests made after the date of enactment.

## **Ticket to Work and Self-Sufficiency Program**

### General

- o Would direct the Commissioner to establish a Ticket to Work and Self-Sufficiency Program (Program) which would provide SSDI beneficiaries and SSI disability recipients with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, or other support services from an employment network of their choice.

### Responsibilities of the Commissioner of Social Security

- o Would select and enter into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Would terminate agreements with program manager(s) who fail to meet the performance standards specified in the agreements.
- o Would preclude program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program manager's agreement.
- o Would select, and enter into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Would terminate agreements with employment networks whose performance is inadequate.
- o Would provide for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Would provide for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

### Responsibilities of the Program Manager(s)

- o Would perform such tasks as assigned by the Commissioner.
- o Would recruit, and recommend for selection by the Commissioner, employment networks which can provide services under the Program.
- o Would monitor employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Would ensure that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Would ensure beneficiaries are allowed changes in employment networks for good cause without being deemed to have rejected services under the Program.

### Employment Network(s)

- o Would assume responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- o Would provide services either directly or by entering into agreements with other providers which can furnish appropriate services.
- o Would serve prescribed service areas and take measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Would meet the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- o Would develop and implement an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal,

(2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

### Employment Network Payment Systems

- o Would authorize the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network would be paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.
  - The outcome-milestone payment system would combine outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network were paid under the outcome payment system.
- o Would require the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Would allow the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.

### State Agency Participation

- o Would permit a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.

- o State VR agencies participating in the Program would provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Would require a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
  - Would direct the Commissioner and the Secretary of Education jointly to prescribe regulations specifying the terms of such agreements.
  - Would prohibit payment to an employment network if the employment network makes referrals to the State VR agency without entering into a written agreement with such State VR agency or in violation of the terms of the written agreement.
- o Would require the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

#### Continuing Disability Reviews

- o Would prohibit the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

#### Financing

- o Would require payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance Trust Funds (OASDI) in the case of title II disability beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses must be allocated as appropriate from amounts made available for the administration of title II and title XVI.



## Regulations

- o Would direct the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

Would be effective with the first month following 1 year after enactment.

## Reauthorization of Program

- o Would terminate the Program 5 years after the date the Commissioner begins implementation of the ticket program.
- o Would provide that individuals who initiated an individual work plan prior to such termination may receive services under the Program after this date.

Employment networks would be paid during the outcome payment period of such individuals.

## Scope of Program Implementation

- o Would direct the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Would require the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

## Evaluation

- o Would require the Commissioner to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self-sufficiency under the Program.
- o Would require the Commissioner to design and conduct a series of evaluations after consultation with work incentive experts, the Advisory Panel, GAO, other Federal agencies and private organizations with appropriate expertise.

## Reports

- o Would require the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports would be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

## Work Incentives Advisory Panel

- o Would establish a Work Incentives Advisory Panel within the Social Security Administration. The Panel would be composed of 12 members appointed by the Commissioner in consultation with the Speaker and the Minority Leader of the House of Representatives and the Majority and Minority Leader of the Senate; at least 7 members should be individuals with disabilities or representatives of individuals with disability, and at least 5 of those 7 members should be current or former title II or title XVI disability beneficiaries. Would require that members be appointed not later than 90 days after enactment.

### Duties would include:

- Advising the Secretary of HHS, the Secretary of Labor, the Secretary of Education, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act.
- Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency on the following:
  - phase-in sites for implementation of the Program;
  - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
  - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings;

- development of performance measures for the employment networks; and
  - furnishing progress reports on the Program to the Commissioner and Congress.
- o Would require the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
  - o Would terminate the Panel 30 days after the date it submits its final report.
  - o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

### **Elimination of Work Disincentives**

#### Work Activity Standard as a Basis for Review

- o Would prohibit the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 or monthly insurance benefits under section 202 based on disability and have received such benefits for at least 24 months.
- o Would allow for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).

Would be effective upon enactment.

#### Expedited Reinstatement

- o Would provide that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.

- o Would require that such individuals must have been unable to continue working on account of their medical condition and file a reinstatement request during the 60-month period following the month of termination.
- o Would require that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals will be eligible for the payment of provisional benefits for a period of not more than 6 months.
- o Would require that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.

Would be effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### Work Incentive Outreach Program

- o Would direct the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.
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  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information to disabled beneficiaries.

- o Would direct the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
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- o Would authorize the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment would be required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- o Would provide that protection and advocacy systems be paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.
- o Would provide that payments must be made from amounts made available for the administration of title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- o Would provide that payments may not exceed \$7 million for fiscal year 2000, and such sums as may be necessary for any fiscal year thereafter.

Would be effective upon enactment.

## **Demonstration Projects and Studies**

### Permanent Disability Insurance Program Demonstration Project Authority

- o Would: (1) permanently authorize section 505 of the Social Security Amendments of 1980 (Authority for Demonstration Projects), (2) direct the Commissioner to conduct demonstration related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income, and (3) permit presumptively eligible applicants to participate in demonstration projects.
- o Would direct the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.

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- o Would direct the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- o Would provide that the demonstration projects should determine:
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  - the savings to the Trust Funds and other Federal programs as a result of the project.
- o Would require the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, the employment outcomes, the merits of trial work periods and periods of extended eligibility for each project.

- o Would authorize the Commissioner to waive compliance with the title II benefit provisions and the Secretary of Health and Human Services to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
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### Funding

- o Would provide that expenditures made for the demonstration projects must be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

Would be effective upon enactment.

### **Reports and Studies**

- o Would require the General Accounting Office (GAO) to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A written report would be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;

- the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report would be due not later than 3 years after the date of enactment; and
- the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A written report would be due not later than 2 years after the date of enactment of this Act.
- o Would direct the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.

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- o Would amend the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
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Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would eliminate the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year--like SSI, benefits would be suspended for any month throughout which the person was confined because of a crime or finding of not guilty by reason of insanity.

Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would provide that an institution does not get two incentive payments when the reported prisoner is a concurrent OASDI/SSI beneficiary--the programs would split the cost of the payment.

Would be effective as if included in enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

- o Would prohibit the payment of monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public institution based on a finding that the individual is a sexually dangerous person or a sexual predator.

Would be effective with respect to benefits for months ending after the date of enactment.

## Revocation by Members of the Clergy of Exemption from Social Security Coverage

- o Would create a 2-year window of opportunity to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption. The application for revocation would have to be filed

before the due date for the income tax return for the applicants second taxable year beginning after 12/31/99. The revocation would be effective, at the applicant's option, beginning with either the first or second taxable year beginning after 12/31/99.

#### Cooperative Research or Demonstration Projects Under Title II and Title XVI

- o Would clarify the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.

Would be effective as if included in the enactment of the Social Security Independence and Program Improvement Act of 1994 (P.L. 103-296).

#### Authorization for State to Permit Annual Wage Reports

- o For purposes of income and eligibility verification for various welfare programs, would authorize States to permit employers to submit wage reports of domestic workers on an annual basis (rather than on a quarterly basis).

Would be applicable to wage reports required to be submitted on or after the date of enactment.

106-10

July 14, 1999

**Senate Passes S. 331  
The Work Incentives Improvements Act of 1999**

On June 16, 1999, the Senate passed S. 331, the Work Incentives Improvement Act of 1999, by a vote of 99 - 0. This bill addresses barriers to work for individuals with disabilities. It would: expand the availability of health care coverage for working individuals with disabilities; establish a Ticket to Work and Self-Sufficiency Program; and provide such individuals with meaningful opportunities to work.

The bill contains the following provisions:

**Expanded Availability of Health Care Services**

State Options under Medicaid

- o Would expand, for individuals who are at least 16, but less than 65, years of age, the States' options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide the opportunity for employed individuals with medically determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) disability benefits due to medical improvement. For purposes of the Medicaid buy-in, the States are authorized to require individuals to pay premiums, or other cost-sharing charges, set on a sliding scale based on income.
- o Would be applicable with respect to medical assistance for items and services furnished on or after October 1, 1999.

- o Would require the General Accounting Office (GAO) to report on these options not later than 3 years after enactment.

#### Continuation of Medicare Coverage

- o Would extend premium-free Medicare Part A coverage for people with disabilities who return to work during the 6-year period beginning with the first month that begins after enactment. Further, it would extend coverage for subsequent months for individuals entitled to health care benefits as of the last month of the 6-year period.
- o Would be applicable for months beginning with the first month that begins after the date of enactment.
- o Would require GAO to examine the effectiveness and cost of providing such premium-free Medicare Part A coverage and to recommend whether such coverage should be continued after the 6-year period.

#### Responsibilities of the Secretary of Health and Human Services

- o Would direct the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits.
- o Would be effective upon enactment.

#### Election by Disabled Beneficiaries to Suspend Medigap Insurance

- o Would allow workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.
- o Would be applicable with respect to requests made after the date of enactment.

## **Ticket to Work and Self-Sufficiency Program**

### General

- o Would direct the Commissioner to establish a Ticket to Work and Self-Sufficiency Program (Program) which would provide SSDI beneficiaries and SSI disability recipients with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, or other support services from an employment network of their choice.

### Responsibilities of the Commissioner of Social Security

- o Would select and enter into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Would terminate agreements with program manager(s) who fail to meet the performance standards specified in the agreements.
- o Would preclude program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program manager's agreement.
- o Would select, and enter into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Would terminate agreements with employment networks whose performance is inadequate.
- o Would provide for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Would provide for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

### Responsibilities of the Program Manager(s)

- o Would perform such tasks as assigned by the Commissioner.
- o Would recruit, and recommend for selection by the Commissioner, employment networks which can provide services under the Program.
- o Would monitor employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Would ensure that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Would ensure beneficiaries are allowed changes in employment networks for good cause without being deemed to have rejected services under the Program.

### Employment Network(s)

- o Would assume responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- o Would provide services either directly or by entering into agreements with other providers which can furnish appropriate services.
- o Would serve prescribed service areas and take measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Would meet the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.

- o Would develop and implement an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

#### Employment Network Payment Systems

- o Would authorize the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network would be paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.
  - The outcome-milestone payment system would combine outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network were paid under the outcome payment system.
- o Would require the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Would allow the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.

#### State Agency Participation

- o Would permit a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.

- o State VR agencies participating in the Program would provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Would require a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
  - Would direct the Commissioner and the Secretary of Education jointly to prescribe regulations specifying the terms of such agreements.
  - Would prohibit payment to an employment network if the employment network makes referrals to the State VR agency without entering into a written agreement with such State VR agency or in violation of the terms of the written agreement.
- o Would require the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

#### Continuing Disability Reviews

- o Would prohibit the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

#### Financing

- o Would require payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance Trust Funds (OASDI) in the case of title II disability beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses must be allocated as appropriate from amounts made available for the administration of title II and title XVI.

#### Regulations

- o Would direct the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.



### Effective Date of the Program

- o Would be effective with the first month following 1 year after enactment.

### Scope of Program Implementation

- o Would direct the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Would require the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

### Evaluation

- o Would require the Commissioner (after consultation with the Advisory Panel, beneficiaries using Tickets, GAO, other Federal agencies, and others with appropriate expertise) to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program.

### Reports

- o Would require the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports would be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

### Work Incentives Advisory Panel

- o Would establish a Work Incentives Advisory Panel within the Social Security Administration. The Panel would be composed of 12 members--4 appointed by the President; 2 each by the Speaker and the Minority Leader of the House; and 2 each by the Majority and Minority Leaders of the Senate. At least one-half of the members should be individuals with disabilities or representatives of individuals with a disability, with consideration given to current and former Social Security and Supplemental Security Income disability beneficiaries. Would require that members be appointed not later than 90 days after enactment.

- o Duties would include:
  - Advising the President, Congress, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act.
  - Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency Program on the following:
    - phase-in sites for implementation of the Program;
    - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
    - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings; and
    - development of performance measures for the employment networks.
  - Furnishing progress reports on the Program to the Commissioner and Congress.
- o Would require the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
- o Would terminate the Panel 30 days after the date it submits its final report.
- o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

## **Elimination of Work Disincentives**

### **Work Activity Standard as a Basis for Review**

- o Would prohibit the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 of the Social Security Act (Act) or monthly insurance benefits under section 202 of the Act based on disability and have received such benefits for at least 24 months.
- o Would allow for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).
- o Would be effective upon enactment.

### **Expedited Reinstatement of Benefits**

- o Would provide that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- o Would require that such individuals (1) are unable to continue working on account of their medical condition and (2) file a reinstatement request during the 60-month period following the month of termination.
- o Would provide that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals would be eligible for the payment of provisional benefits for a period of not more than 6 months.
- o Would require that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.
- o Would be effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### **Work Incentives Outreach Program**

- o Would direct the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.
- o Under the Program, the Commissioner would be directed to:
  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information to disabled beneficiaries.
- o Would direct the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
- o Would provide that the costs be paid from amounts made available for the administration for title II and title XVI, and that allocations be made from those amounts as appropriate.
- o Would authorize \$23 million to be allocated for each of fiscal years 2000 through 2004.
- o Would be effective upon enactment.

## Protection and Advocacy

- o Would authorize the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment would be required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- o Would provide that protection and advocacy systems be paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.
- o Would provide that payments be made from amounts available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- o Would authorize \$7 million to be appropriated for each of fiscal years 2000 through 2004.
- o Would be effective upon enactment.

## **Demonstration Projects and Studies**

### Permanent Disability Insurance Program Demonstration Project Authority

- o Would: (1) permanently authorize section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects), (2) direct the Commissioner to conduct demonstrations related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income, and (3) permit presumptively eligible applicants to participate in demonstration projects.
- o Would direct the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.
- o Would be effective upon enactment.

## Reduction in Disability Benefits Based on Earnings

- o Would direct the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- o Would provide that the demonstration projects should determine:
  - the effects, if any, of induced entry and reduced exit;
  - the extent, if any, to which the project being tested is affected by whether it is being conducted in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program; and,
  - the savings to the Trust Funds and other Federal programs as a result of the project.
- o Would require the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, the employment outcomes of beneficiaries who return to work as a result of participation in the project.
- o Would permit the Commissioner to evaluate the merits of the trial work period and the period of extended eligibility as part of the projects.
- o Would authorize the Commissioner to waive compliance with the title II benefit provisions and the Secretary of Health and Human Services to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- o Would require the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, would require the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

## Funding

- o Would provide that expenditures for the demonstration projects be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.
- o Would be effective upon enactment.

## Reports and Studies

- o Would require the General Accounting Office to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A report would be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
  - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report would be due to the Congressional committees not later than 3 years after the date of enactment; and
  - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A report would be due to the Congressional committees not later than 2 years after the date of enactment of this Act.
- o Would direct the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI

programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.

- o Would be effective upon enactment.

### **Technical Amendments**

#### Drug Addicts and Alcoholics (DA&A)

- o Would amend the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
- o Would expand the applicability of the provisions in P.L. 104-121 which authorize the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.
- o Would be effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

#### Treatment of Prisoners

- o Would extend the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program.

Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would eliminate the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year--like SSI, benefits would be suspended for any month throughout which the person was confined because of a crime or finding of not guilty by reason of insanity.



Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would provide that an institution does not get two incentive payments when the reported prisoner is a concurrent OASDI/SSI beneficiary--the programs would split the cost of the payment.

Would be effective as if included in enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

- o Would prohibit the payment of monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public institution based on a finding that the individual is a sexually dangerous person or a sexual predator.

Would be effective with respect to benefits for months ending after the date of enactment.

#### Revocation by Members of the Clergy of Exemption from Social Security Coverage

- o Would create a 2-year window of opportunity to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption.
- o The application for revocation would have to be filed before the due date for the income tax return for the applicants second taxable year beginning after 12/31/99. The revocation would be effective, at the applicant's option, beginning with either the first or second taxable year beginning after 12/31/99.

#### Cooperative Research or Demonstration Projects Under Title II and Title XVI

- o Would clarify the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.
- o Would be effective as if included in the enactment of the Social Security Independence and Program Improvement Act of 1994 (P.L. 103-296).

### Authorization for State to Permit Annual Wage Reports

- o For purposes of income and eligibility verification for various welfare programs, would authorize States to permit employers to submit wage reports of domestic workers on an annual basis (rather than on a quarterly basis).
- o Would be applicable to wage reports required to be submitted on or after the date of enactment.

# LEGISLATIVE

SOCIAL SECURITY  
ADMINISTRATION

# BULLETIN

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106-11

November 9, 1999

On October 19, 1999, the House of Representatives passed H.R. 1180, the Ticket to Work and Work Incentives Improvement Act of 1999, by a vote of 412-9. Provisions of this bill are described below. On October 21, the Senate passed H.R. 1180 after amending it with the text of Senate-passed S. 331. Provisions of S. 331 were described in Legislative Bulletin 106-10.

Provisions of the House-passed bill are described below.

## **Establishment of the Ticket to Work and Self-Sufficiency Program**

### General

- o Would direct the Commissioner to establish a Ticket to Work and Self-Sufficiency Program (Program) which would provide SSDI and SSI disability beneficiaries with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, or other support services from an employment network of their choice.

### Responsibilities of the Commissioner of Social Security

- o Would select and enter into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Would terminate agreements with program manager(s) who fail to meet the performance standards specified in the agreements.

- o Would preclude program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program manager's agreement.
- o Would select, and enter into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Would terminate agreements with employment networks whose performance is inadequate.
- o Would provide for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Would provide for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

#### Responsibilities of the Program Manager(s)

- o Would perform such tasks as assigned by the Commissioner.
- o Would recruit, and recommend for selection by the Commissioner, employment networks which can provide services under the Program.
- o Would monitor employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Would ensure that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Would ensure beneficiaries are allowed changes in employment networks for good cause without being deemed to have rejected services under the Program.

### Employment Network(s)

- o Would assume responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- o Would provide services either directly or by entering into agreements with other providers which can furnish appropriate services.
- o Would serve prescribed service areas and take measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Would meet the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- o Would develop and implement an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

### Employment Network Payment Systems

- o Would authorize the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network would be paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.

- The outcome-milestone payment system would combine outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network were paid under the outcome payment system.
- o Would require the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Would allow the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.
- o Would require the Commissioner to report within 36 months of enactment on the adequacy of the payment system as an incentive for providing services to with a need for ongoing support or services, high cost accommodations, who earn a subminimum wage, or who work and receive partial benefits.

#### State Agency Participation

- o Would permit a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.
- o State VR agencies participating in the Program would provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Would require a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
- Would direct the Commissioner and the Secretary of Education jointly to prescribe regulations specifying the terms of such agreements.

- Would prohibit payment to an employment network if the employment network makes referrals to the State VR agency without entering into a written agreement with such State VR agency or in violation of the terms of the written agreement.
- o Requires the Commissioner to establish in regulations a dispute resolution mechanism when the State VR agency and the employment network fail to reach an agreement on cross-referring beneficiaries.
- o Would require the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

#### Continuing Disability Reviews

- o Would prohibit the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

#### Financing

- o Would require payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance Trust Funds (OASDI) in the case of SSDI beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses would be authorized as appropriate from amounts made available for the administration of title II and title XVI of the Social Security Act (the Act).

#### Regulations

- o Would direct the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

#### Effective Date of the Program

- o Would be effective with the first month following 1 year after enactment.

### Scope of Program Implementation

- o Would direct the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Would require the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

### Evaluation

- o Would require the Commissioner (after consultation with the Advisory Panel, beneficiaries using Tickets, the General Accounting Office (GAO), other Federal agencies, and others with appropriate expertise) to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program.

### Reports

- o Would require the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports would be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

## **Work Incentives**

### Work Incentives Advisory Panel

- o Would establish a Work Incentives Advisory Panel within the Social Security Administration. The Panel would be composed of 12 members--4 appointed by the President; 2 each by the Speaker and the Minority Leader of the House; and 2 each by the Majority and Minority Leaders of the Senate. At least one-half of



the members should be individuals with disabilities or representatives of individuals with a disability, with consideration given to current and former Social Security and Supplemental Security Income disability beneficiaries. Would require that members be appointed not later than 90 days after enactment.

- o Requires that 8 of 12 members represent the interests of recipients of service, providers of service, employers, and employees (two each).
- o Duties would include:
  - Advising the President, Congress, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Act.
  - Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency Program on the following:
    - phase-in sites for implementation of the Program;
    - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
    - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings; and
    - development of performance measures for the employment networks.
  - Furnishing progress reports on the Program to the Commissioner and Congress.
- o Would require the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.

- o Would terminate the Panel 30 days after the date it submits its final report.
- o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

### **Elimination of Work Disincentives**

#### Work Activity Standard as a Basis for Review

- o Would prohibit the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 of the Act or monthly insurance benefits under section 202 of the Act based on disability and have received such benefits for at least 24 months.
- o Would allow for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).
- o Would be effective January 1, 2003.

#### Expedited Reinstatement of Benefits

- o Would provide that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- o Would require that such individuals (1) are unable to continue working on account of their medical condition and (2) file a reinstatement request during the 60-month period following the month of termination.
- o Would provide that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals would be eligible for the payment of provisional benefits for a period of not more than 6 months.

- o Would require that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.
- o Would be effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### Work Incentives Outreach Program

- o Would direct the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.
- o Under the Program, the Commissioner would be directed to:
  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information to disabled beneficiaries.
- o Would direct the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.

- o Would provide that the costs be paid from amounts made available for the administration for title II and title XVI, and that allocations be made from those amounts as appropriate.
- o Would authorize \$23 million to be allocated for each of fiscal years 2000 through 2004.
- o Would be effective upon enactment.

### Protection and Advocacy

- o Would authorize the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment would be required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- o Would provide that protection and advocacy systems be paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.
- o Would provide that payments be made from amounts available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- o Would authorize \$7 million to be appropriated for each of fiscal years 2000 through 2004.
- o Would be effective upon enactment.

### **Expanded Availability of Health Care Services**

#### State Options under Medicaid

- o Would expand, for individuals who are at least 16, but less than 65, years of age, the States' options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide the opportunity for employed individuals with medically

determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for SSDI or SSI disability benefits due to medical improvement. For purposes of the Medicaid buy-in, the States are authorized to require individuals to pay premiums, or other cost-sharing charges, set on a sliding scale based on income.

- o Would be applicable with respect to medical assistance for items and services furnished on or after October 1, 1999.
- o Would require GAO to report on these options not later than 3 years after enactment.

#### Continuation of Medicare Coverage

- o Would extend premium-free Medicare Part A coverage for people with disabilities who return to work for an additional 6-year period beyond current law for SSDI beneficiaries (for a total of 10 years after work begins).
- o Effective date is October 1, 2000.
- o Would require GAO (5 years after enactment) to examine the effectiveness and cost of providing such premium-free Medicare Part A coverage and to recommend whether such coverage should be continued beyond the 6-year period and to examine the viability of employer buy-in to Medicare.

#### Responsibilities of the Secretary of Health and Human Services

- o Would direct the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and funding is authorized, not mandatorily appropriated; and
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits. Funding is authorized, not mandatorily appropriated.
- o Would be effective upon enactment.

#### Election by Disabled Beneficiaries to Suspend Medigap Insurance

- o Would allow workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.
- o Would be applicable with respect to requests made after the date of enactment.

### **Demonstration Projects and Studies**

#### Disability Insurance Program Demonstration Project Authority

- o Would: (1) authorize section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects) for a 5-year period, (2) direct the Commissioner to conduct demonstrations related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income, and (3) permit presumptively eligible applicants to participate in demonstration projects.
- o Would direct the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.
- o Requires GAO to study and recommend as to whether the authority should be permanent.
- o Would be effective upon enactment.

#### Reduction in Disability Benefits Based on Earnings

- o Would direct the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- o Would provide that the demonstration projects should determine:
  - the effects, if any, of induced entry and reduced exit;

- the extent, if any, to which the project being tested is affected by whether it is being conducted in a locality within an area under the administration of the Ticket Program; and,
- the savings to the Trust Funds and other Federal programs as a result of the project.
- o Would require the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, the employment outcomes of beneficiaries who return to work as a result of participation in the project.
- o Would permit the Commissioner to evaluate the merits of the trial work period and the period of extended eligibility as part of the projects.
- o Would authorize the Commissioner to waive compliance with the title II benefit provisions and the Secretary of HHS to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- o Would require the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, would require the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

### Funding

- o Would provide that expenditures for the demonstration projects be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.
- o Would be effective upon enactment.

## Reports and Studies

- o Would require GAO to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A report would be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
  - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report would be due to the congressional committees not later than 3 years after the date of enactment; and
  - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A report would be due to the congressional committees not later than 2 years after the date of enactment of this Act.
- o Would direct the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.
- o Would be effective upon enactment.



## Technical Amendments

### Drug Addicts and Alcoholics (DA&A)

- o Would amend the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
- o Would expand the applicability of the provisions in P.L. 104-121, which authorizes the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.
- o Would be effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

### Treatment of Prisoners

- o Would extend the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program.

Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would eliminate the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year. Benefits would be suspended for any month during which the person was confined because of a crime or finding of not guilty by reason of insanity except that no monthly benefit would be suspended for any month falling within a period of confinement that lasts for less than 31 days.
- o Would be applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Would provide that an institution does not get two incentive payments when the reported prisoner is a concurrent OASDI/SSI beneficiary--the programs would split the cost of the payment.

Would be effective as if included in enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

- o Would prohibit the payment of monthly benefits to any title II beneficiary who upon completion of a prison term remains confined by court order to a public institution based on a finding that the individual is a sexually dangerous person or a sexual predator.

Would be effective with respect to benefits for months ending after the date of enactment.

#### Revocation by Members of the Clergy of Exemption from Social Security Coverage

- o Would create a 2-year window to allow members of the clergy who applied for and received an exemption from Social Security coverage to revoke the exemption.
- o The application for revocation would have to be filed before the due date for the income tax return for the applicant's second taxable year beginning after 12/31/99. The revocation would be effective, at the applicant's option, beginning with either the first or second taxable year beginning after 12/31/99.

#### Cooperative Research or Demonstration Projects Under Title II and Title XVI

- o Would clarify the Commissioner's authority to make grants and payments under cooperative research or demonstration projects in advance or by way of reimbursement to carry out demonstration projects and cooperative research not only for title XVI, but also title II under section 1110(a) of the Social Security Act.
- o Would be effective as if included in the enactment of the Social Security Independence and Program Improvement Act of 1994 (P.L. 103-296).

#### Authorization for State to Permit Annual Wage Reports

- o For purposes of income and eligibility verification for various welfare programs, would authorize States to permit employers to submit wage reports of domestic workers on an annual basis (rather than on a quarterly basis).

Would be applicable to wage reports required to be submitted on or after the date of enactment.

#### Assessment on Attorneys Who Receive their Fees Via the Social Security Administration

- o Allows the Commissioner to charge an assessment in the amount of 6.3 percent for withholding, processing, and forwarding an attorney's fee directly to the attorney.

Would be applicable in the case of any attorney with respect to whom a fee for services is required to be certified for payments from a claimant's past-due payments after December 31, 1999 or the last day of the first month beginning after the month of enactment.

#### Elimination of Fraud and Abuse Associated with Certain Payments Under the Medicaid Program

- o Tightens the requirements for school-based Medicaid reimbursement in the areas of transportation, bundling of claims, and administrative charges to eliminate fraud and abuse.
- o In general, would be applicable to items and services provided on and after the date of enactment. The amendments related to provisions of items and services provided through Managed Care Organizations would be applicable to contracts entered into or renewed after the date of enactment.

#### Extension of authority of State Medicaid Fraud Control Units

- O Extend the authority of State Medicaid fraud control units to investigate and prosecute fraud in other Federal health care programs.
- O Would be effective upon enactment.

# ***LEGISLATIVE*** **Bulletin**

SOCIAL SECURITY  
ADMINISTRATION

106-13R

December 3, 1999

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## **CONGRESS PASSES THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999**

On November 18, 1999 the House of Representatives passed the conference report accompanying H.R. 1180, the Ticket to Work and Work Incentives Improvement Act of 1999, by a vote of 418-2. The Senate passed the conference report, by a vote of 95-1, on November 19, 1999. The President has indicated that he will sign the legislation. The bill contains the following provisions of interest to SSA:

### **Ticket to Work and Self-Sufficiency Program**

#### General

- o Directs the Commissioner to establish a Ticket to Work and Self-Sufficiency program (Program) which would provide SSDI and SSI disability beneficiaries with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, and other support services from an employment network of their choice.

#### Responsibilities of the Commissioner of Social Security

- o Selects and enters into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Terminates agreements with program manager(s) who fail to meet the performance standards specified in the agreements.

- o Precludes program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program managers' agreement.
- o Selects, and enters into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Terminates agreements with employment networks whose performance is inadequate.
- o Provides for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Provides for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

#### Responsibilities of the Program Manager(s)

- o Performs such tasks as assigned by the Commissioner.
- o Recruits and recommends, for selection by the Commissioner, employment networks which can provide services under the Program.
- o Monitors employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Ensures that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Ensures beneficiaries are allowed changes in employment networks without being deemed to have rejected services under the Program. \*

#### Employment Network(s)

- o Assumes responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.

- o Provides services either directly or by entering into agreements with other providers which can furnish appropriate services.
- o Serves prescribed service areas and takes measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Meets the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- o Develops and implements an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

#### Employment Network Payment Systems

- o Authorizes the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network is paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.
  - The outcome-milestone payment system combines outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network is paid under the outcome payment system.
- o Requires the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Allows the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.

- o Requires the Commissioner to report within 36 months of enactment on the adequacy of the payment system as an incentive for providing services to individuals with a need for ongoing support or services, high cost accommodations, who earn a subminimum wage, or who work and receive partial benefits.

### State Agency Participation

- o Permits a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.
- o State VR agencies participating in the Program will provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Requires a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
  - Directs the Commissioner to prescribe regulations specifying the terms of such agreements. \*
- o Requires the Commissioner to establish in regulations a dispute resolution mechanism when the State VR agency and the employment network fail to reach an agreement on cross-referring beneficiaries.
- o Requires the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

### Continuing Disability Reviews

- o Prohibits the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

### Financing

- o Requires payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance (OASDI) Trust Funds in the case of SSDI beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses

would be authorized as appropriate from amounts made available for the administration of title II and title XVI of the Social Security Act (the Act).

### Regulations

- o Directs the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

### Effective Date of the Program

- o Effective with the first month following 1 year after enactment.

### Scope of Program Implementation

- o Directs the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Requires the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

### Evaluation

- o Requires the Commissioner (after consultation with the Advisory Panel, beneficiaries using Tickets, the General Accounting Office (GAO), other Federal agencies, and others with appropriate expertise) to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program. Also, requires the Commissioner to provide for independent evaluations to assess the activities carried out under the Program.

### Reports

- o Requires the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports should be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

### Work Incentives Advisory Panel

- o Establishes a Work Incentives Advisory Panel within the Social Security Administration. The Panel will be composed of 12 members--4 appointed by the



President; 2 each by the Speaker and the Minority Leader of the House; and 2 each by the Majority and Minority Leaders of the Senate. At least one-half of the members shall be individuals with disabilities or representatives of individuals with a disability, with consideration given to current and former Social Security and Supplemental Security Income disability beneficiaries. Requires that members be appointed not later than 90 days after enactment. \*

- o Requires that all 12 members represent the interests of recipients of service, providers of service, employers, and employees (two each).
- o Duties include:
  - Advising the President, Congress, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Act.
  - Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency Program on the following:
    - phase-in sites for implementation of the Program;
    - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
    - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings; and
    - development of performance measures for the employment networks.
  - Furnishing progress reports on the Program to the Commissioner and Congress.
- o Requires the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
- o Terminates the Panel 30 days after the date it submits its final report.
- o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.

## **Elimination of Work Disincentives**

### **Work Activity Standard as a Basis for Review**

- o Prohibits the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 of the Act or monthly insurance benefits under section 202 of the Act based on disability and have received such benefits for at least 24 months.
- o Allows for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).
- o Effective January 1, 2002.

### **Expedited Reinstatement of Benefits**

- o Provides that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- o Requires that such individuals (1) are unable to continue working on account of their medical condition and (2) file a reinstatement request during the 60-month period following the month of termination.
- o Provides that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals are eligible for the payment of provisional benefits for a period of not more than 6 months.
- o Requires that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.
- o Effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### **Work Incentives Outreach Program**

- o Directs the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance

program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.

- o Under the Program, the Commissioner is directed to:
  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information. \*
- o Directs the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
- o Provides that the costs be paid from amounts made available for the administration for title II and title XVI, and that allocations be made from those amounts as appropriate.
- o Authorizes \$23 million to be allocated for each of fiscal years 2000 through 2004.
- o Effective upon enactment.

#### Protection and Advocacy

- o Authorizes the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment is required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- o Provides that protection and advocacy systems are paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.

- o Provides that payments are made from amounts available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.
- o Authorizes \$7 million to be appropriated for each of fiscal years 2000 through 2004.
- o Effective upon enactment.

### **Expanded Availability of Health Care Services**

#### State Options under Medicaid

- o Expands, for individuals who are at least 16, but less than 65, years of age, the States' options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide the opportunity for employed individuals with medically determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for SSDI or SSI disability benefits due to medical improvement. For purposes of the Medicaid buy-in, the States are authorized to require individuals to pay premiums, or other cost-sharing charges, set on a sliding scale based on income.
- o Applicable with respect to medical assistance for items and services furnished on or after October 1, 2000.
- o Requires GAO to report on these options not later than 3 years after enactment.

#### Continuation of Medicare Coverage

- o Extends premium-free Medicare Part A coverage for people with disabilities who return to work for an additional 4 1/2-year period beyond the four years provided under current law for SSDI beneficiaries.  
  
Effective date is October 1, 2000.
- o Requires GAO (5 years after enactment) to examine the effectiveness and cost of providing such premium-free Medicare Part A coverage and to recommend whether such coverage should be continued and to examine the viability of employer buy-in to Medicare.

## Responsibilities of the Secretary of Health and Human Services

- o Directs the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and \*
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits. \*

Effective October 1, 2000.

## Election by Disabled Beneficiaries to Suspend Medigap Insurance

- o Allows workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.

Applicable with respect to requests made after the date of enactment.

## **Demonstration Projects and Studies**

### Disability Insurance Program Demonstration Project Authority

- o Authorizes section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects) for a 5-year period. Directs the Commissioner to conduct demonstrations related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income. Permits presumptively eligible applicants to participate in demonstration projects.
- o Directs the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.
- o Requires GAO to study and recommend as to whether the authority should be permanent.
- o Effective upon enactment.

## Reduction in Disability Benefits Based on Earnings

- o Directs the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- o Provides that the demonstration projects should determine:
  - the effects, if any, of induced entry and reduced exit;
  - the extent, if any, to which the project being tested is affected by whether it is being conducted in a locality within an area under the administration of the Ticket Program; and,
  - the savings to the Trust Funds and other Federal programs as a result of the project.
- o Requires the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, and the employment outcomes of beneficiaries who return to work as a result of participation in the project.
- o Permits the Commissioner to evaluate the merits of the trial work period and the period of extended eligibility as part of the projects.
- o Authorizes the Commissioner to waive compliance with the title II benefit provisions and the Secretary of HHS to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- o Requires the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, requires the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

## Funding

- o Provides that expenditures for the demonstration projects be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal

Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

Effective upon enactment.

### Reports and Studies

- o Requires GAO to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
  - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report is due to the congressional committees not later than 3 years after the date of enactment; and
  - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A report is due to the congressional committees not later than 2 years after the date of enactment of this Act.
- o Directs the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.
- o Effective upon enactment.

## Technical Amendments

### Drug Addicts and Alcoholics (DA&A)

- o Amends the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
- o Expands the applicability of the provisions in P.L. 104-121, which authorizes the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.
- o Effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

### Treatment of Prisoners

- o Extends the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program for purpose of determining program eligibility.

Applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Eliminates the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year. Benefits would be suspended for any month during which the person was confined because of a crime or finding of not guilty by reason of insanity except that no monthly benefit would be suspended for any month falling within a period of confinement that lasts for less than 30 days.

Applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

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\* Denotes that the section has been revised

# **LEGISLATIVE**

# **Bulletin**

SOCIAL SECURITY  
ADMINISTRATION

106-15

December 17, 1999

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## **PRESIDENT CLINTON SIGNS THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999**

Today the President signed into law H.R. 1180, the Ticket to Work and Work Incentives Improvement Act of 1999. The law contains the following provisions of interest to SSA:

### **Ticket to Work and Self-Sufficiency Program**

#### General

- o Directs the Commissioner to establish a Ticket to Work and Self-Sufficiency program (Program) which would provide SSDI and SSI disability beneficiaries with a ticket they may use to obtain vocational rehabilitation (VR) services, employment services, and other support services from an employment network of their choice.

#### Responsibilities of the Commissioner of Social Security

- o Selects and enters into agreements with one or more organizations in the public or private sector to serve as a program manager(s) to assist the Commissioner in administering the Program.
- o Terminates agreements with program manager(s) who fail to meet the performance standards specified in the agreements.
- o Precludes program managers from direct participation in the delivery of services to beneficiaries or from holding a financial interest in an employment network in the service area covered by the program managers' agreement.

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OFFICE OF THE DEPUTY COMMISSIONER FOR LEGISLATION AND CONGRESSIONAL AFFAIRS

- o Selects, and enters into agreements with, employment networks, including alternate participants who choose to act as an employment network, to provide services under the Program.
- o Terminates agreements with employment networks whose performance is inadequate.
- o Provides for periodic reviews of employment networks to ensure effective quality assurance in the provision of services.
- o Provides for a process to resolve disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services.

#### Responsibilities of the Program Manager(s)

- o Performs such tasks as assigned by the Commissioner.
- o Recruits and recommends, for selection by the Commissioner, employment networks which can provide services under the Program.
- o Monitors employment networks under its jurisdiction to ensure that beneficiaries have adequate choices of services and reasonable access to services, e.g., case management, benefits counseling, supported employment, job training, placement, and follow-up services.
- o Ensures that employment networks comply with the terms of their agreements with the Commissioner and that payment by the Commissioner to an employment network is warranted.
- o Ensures beneficiaries are allowed changes in employment networks without being deemed to have rejected services under the Program.

#### Employment Network(s)

- o Assumes responsibility for coordination and delivery of services under the Program to an individual assigning his/her ticket to work and self-sufficiency to an employment network.
- o May consist of a one-stop delivery system established under the Workforce Investment Act of 1998 or either a single provider of such services or a group of providers organized to combine their resources into a single entity.
- o Provides services either directly or by entering into agreements with other providers which can furnish appropriate services.

- o Serves prescribed service areas and takes measures to ensure that services provided under the Program meet the requirements of individual work plans.
- o Meets the financial reporting requirements prescribed by the Commissioner. Prepares periodic reports, on at least an annual basis, itemizing specific outcomes achieved with respect to services provided to beneficiaries.
- o Develops and implements an individual work plan in partnership with each beneficiary that includes a statement of the: (1) beneficiary's vocational goal, (2) services and supports necessary to accomplish that goal, (3) terms and conditions related to the provision of those services and supports, (4) rights and remedies available to the beneficiary, and (5) beneficiary's right to modify his/her work plan if needed. The individual work plan is effective upon written approval by the beneficiary and a representative of the employment network.

### Employment Network Payment Systems

- o Authorizes the Commissioner to pay an employment network under either an outcome payment system or an outcome-milestone payment system. Each employment network will elect the payment system under which it will be paid.
  - Under the outcome payment system, an employment network is paid a percentage, not to exceed 40 percent, of the national average SSDI or SSI payment for each month that a beneficiary does not receive a benefit payment due to work activity for a period not to exceed 60 months.
  - The outcome-milestone payment system combines outcome payments with payments for achieving one or more milestones directed toward assisting the beneficiary in achieving permanent employment. However, the total amount of outcome-milestone payments must be less than the total amount of payments if the employment network is paid under the outcome payment system.
- o Requires the Commissioner to review periodically the specifications of the payment system (percentage and total payment) to ensure that the system provides an adequate incentive for employment networks to assist beneficiaries in entering the workforce.
- o Allows the Commissioner to alter the percentage or total permissible payments, as well as the number and amount of milestone payments, to allow an adequate incentive for employment networks.
- o Requires the Commissioner to report within 36 months of enactment on the adequacy of the payment system as an incentive for providing services to

individuals with a need for ongoing support or services, high cost accommodations, who earn a subminimum wage, or who work and receive partial benefits.

### State Agency Participation

- o Permits a State VR agency to elect participation in the Program as an employment network with respect to each disabled beneficiary for whom it will provide services.
- o State VR agencies participating in the Program will provide services under plans approved under title I of the Rehabilitation Act of 1973.
- o Requires a written agreement between the State VR agency and the employment network before a State VR agency can accept any referral of a disabled beneficiary from an employment network assigned a ticket to work by the disabled beneficiary.
  - Directs the Commissioner to prescribe regulations specifying the terms of such agreements.
- o Requires the Commissioner to establish in regulations a dispute resolution mechanism when the State VR agency and the employment network fail to reach an agreement on cross-referring beneficiaries.
- o Requires the Commissioner, if the amendments have not been fully implemented in a State, to determine through regulations the extent (1) to which the requirement concerning prompt referral to the State VR agency applies, and (2) of the Commissioner's authority to provide vocational rehabilitation services by agreement or contract with other public or private agencies in the State.

### Continuing Disability Reviews

- o Prohibits the Commissioner from initiating continuing disability reviews during the period that a beneficiary is using a ticket to work and self-sufficiency.

### Financing

- o Requires payments to employment networks to be made from the Federal Old-Age, Survivors and Disability Insurance (OASDI) Trust Funds in the case of SSDI beneficiaries who return to work and from appropriations made available for making SSI payments under title XVI. The costs for administrative expenses would be authorized as appropriate from amounts made available for the administration of title II and title XVI of the Social Security Act (the Act).

## Regulations

- o Directs the Commissioner to prescribe regulations necessary to implement the Ticket to Work and Self-Sufficiency Program not later than 1 year after the date of enactment.

## Effective Date of the Program

- o Effective with the first month following 1 year after enactment.

## Scope of Program Implementation

- o Directs the Commissioner to implement the amendments in graduated phases at sites selected by the Commissioner to ensure the refinement of the Program processes prior to full implementation.
- o Requires the Commissioner to fully implement the Program as soon as practicable, but not later than 3 years after the effective date.

## Evaluation

- o Requires the Commissioner (after consultation with the Advisory Panel, beneficiaries using Tickets, the General Accounting Office (GAO), other Federal agencies, and others with appropriate expertise) to design and conduct a series of evaluations to assess the cost-effectiveness of the Program and the work outcomes for beneficiaries receiving a ticket to work and self sufficiency under the Program. Also, requires the Commissioner to provide for independent evaluations to assess the activities carried out under the Program.

## Reports

- o Requires the Commissioner to report following the close of the third and fifth fiscal years and prior to the close of the seventh fiscal year ending after the effective date. Reports should be submitted to the House Committee on Ways and Means and the Senate Committee on Finance on the Commissioner's evaluation of the progress of activities, as well as the success of the Program and the Commissioner's conclusions on whether or how the Program should be modified.

## Work Incentives Advisory Panel

- o Establishes a Work Incentives Advisory Panel within the Social Security Administration. The Panel will be composed of 12 members--4 appointed by the President; 2 each by the Speaker and the Minority Leader of the House; and 2 each by the Majority and Minority Leaders of the Senate. At least one-half of

the members shall be individuals with disabilities or representatives of individuals with a disability, with consideration given to current and former Social Security and Supplemental Security Income disability beneficiaries. Requires that members be appointed not later than 90 days after enactment.

- o Requires that all 12 members represent the interests of recipients of service, providers of service, employers, and employees (two each).
- o Duties include:
  - Advising the President, Congress, and the Commissioner of Social Security on issues related to work incentive programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Act.
  - Advising the Commissioner with respect to the Ticket to Work and Self-Sufficiency Program on the following:
    - phase-in sites for implementation of the Program;
    - access of disabled beneficiaries to employment networks, payment systems, and management information systems to ensure the success of the Program;
    - the most effective designs for research and demonstration projects associated with the Program or conducted with respect to the reduction in disability insurance benefits based on earnings; and
    - development of performance measures for the employment networks.
    - Furnishing progress reports on the Program to the Commissioner and Congress.
- o Requires the Panel to submit interim reports at least annually and transmit a final report which includes a detailed statement of the findings and conclusions of the Panel and its recommendations for legislation and administrative actions, to the President and the Congress not later than 8 years after the date of enactment.
- o Terminates the Panel 30 days after the date it submits its final report.
- o The costs for the Panel shall be made from amounts available for the administration of title II and title XVI, and shall be allocated from those amounts as appropriate.



## **Elimination of Work Disincentives**

### Work Activity Standard as a Basis for Review

- o Prohibits the use of work activity as a basis for review for individuals who are entitled to disability insurance benefits under section 223 of the Act or monthly insurance benefits under section 202 of the Act based on disability and have received such benefits for at least 24 months.
- o Allows for continuing disability reviews on a regularly scheduled basis that are not triggered by work activity, and termination of benefits if the individual has earnings that exceed the level of earning established by the Commissioner to represent substantial gainful activity (SGA).
- o Effective January 1, 2002.

### Expedited Reinstatement of Benefits

- o Provides that individuals, whose prior entitlement to disability and health care benefits had been terminated as a result of earnings from work activity, may request reinstatement of benefits without filing a new application.
- o Requires that such individuals (1) are unable to continue working on account of their medical condition and (2) file a reinstatement request during the 60-month period following the month of termination.
- o Provides that, while SSA is making a determination (by applying the medical improvement review standard) on the reinstatement request, individuals are eligible for the payment of provisional benefits for a period of not more than 6 months.
- o Requires that, if SSA makes a favorable determination, both the individual's prior entitlement to benefits and the prior benefits of his dependents who continue to meet the entitlement criteria would be reinstated.
- o Effective on the first day of the 13th month beginning after the date of enactment.

## **Work Incentives Planning, Assistance, and Outreach**

### Work Incentives Outreach Program

- o Directs the Commissioner, in consultation with the Work Incentives Advisory Panel, to establish a community-based work incentives planning and assistance

program for the purpose of providing accurate information related to work incentives to disabled beneficiaries.

- o Under the Program, the Commissioner is directed to:
  - establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries;
  - conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts; and
  - establish a corps of work incentive specialists within the Social Security Administration who specialize in title II and title XVI work incentives for the purpose of providing accurate information.
- o Directs the Commissioner to award a grant, cooperative agreement, or contract to an entity based on a percentage of the population of disabled beneficiaries in the State where the entity is located. No entity will receive a grant, cooperative agreement, or contract for a fiscal year that is less than \$50,000 or more than \$300,000. The total amount of all grants, cooperative agreements, and contracts awarded for a fiscal year may not exceed \$23 million.
- o Provides that the costs be paid from amounts made available for the administration for title II and title XVI, and that allocations be made from those amounts as appropriate.
- o Authorizes \$23 million to be allocated for each of fiscal years 2000 through 2004.
- o Effective upon enactment.

#### Protection and Advocacy

- o Authorizes the Commissioner to make payments to protection and advocacy systems established in each state. Each system that receives payment is required to submit an annual report to the Commissioner and the Work Incentives Advisory Panel.
- o Provides that protection and advocacy systems are paid the greater of \$100,000 or 1/3 of 1 percent of the amount available for payments for a fiscal year.

Provides that payments are made from amounts available for the administration for title II and title XVI, and would be allocated from those amounts as appropriate. Any amounts allotted for payments to a protection and advocacy system would remain available until the end of the succeeding fiscal year.

- o Authorizes \$7 million to be appropriated for each of fiscal years 2000 through 2004.
- o Effective upon enactment.

### **Expanded Availability of Health Care Services**

#### State Options under Medicaid

- o Expands, for individuals who are at least 16, but less than 65, years of age, the States' options and funding for the Medicaid buy-in for workers with disabilities by permitting States to: (1) liberalize limits on resources and income, and (2) provide the opportunity for employed individuals with medically determinable impairments, as determined by the Secretary of Health and Human Services (HHS), to buy into Medicaid even though they are no longer eligible for SSDI or SSI disability benefits due to medical improvement. For purposes of the Medicaid buy-in, the States are authorized to require individuals to pay premiums, or other cost-sharing charges, set on a sliding scale based on income.
- o Applicable with respect to medical assistance for items and services furnished on or after October 1, 2000.
- o Requires GAO to report on these options not later than 3 years after enactment.

#### Continuation of Medicare Coverage

- o Extends premium-free Medicare Part A coverage for people with disabilities who return to work for an additional 4 1/2-year period beyond the four years provided under current law for SSDI beneficiaries.  
  
Effective October 1, 2000.
- o Requires GAO (5 years after enactment) to examine the effectiveness and cost of providing such premium-free Medicare Part A coverage and to recommend whether such coverage should be continued and to examine the viability of employer buy-in to Medicare.

## Responsibilities of the Secretary of Health and Human Services

- o Directs the Secretary of HHS to:
  - provide grants to establish State infrastructures to support working individuals with disabilities; and
  - create a demonstration of a Medicaid buy-in for people whose disabilities have not yet gotten severe enough to cause them to stop work and file for benefits.

Effective October 1, 2000.

## Election by Disabled Beneficiaries to Suspend Medigap Insurance

- o Allows workers with disabilities who have Medicare coverage and a Medigap policy to suspend the premiums and benefits of the Medigap policy if they have employer-sponsored coverage.

Applicable with respect to requests made after the date of enactment.

## **Demonstration Projects and Studies**

### Disability Insurance Program Demonstration Project Authority

- o Authorizes section 505 of the Social Security Disability Amendments of 1980 (Authority for Demonstration Projects) for a 5-year period. Directs the Commissioner to conduct demonstrations related to sliding scale benefit offsets using variations in the amounts of the offset as a proportion of earned income. Permits presumptively eligible applicants to participate in demonstration projects.
- o Directs the Commissioner to submit: (1) interim reports on or before June 9 of each year on the progress of the demonstration projects, and (2) a final report not later than 90 days after the termination of any experiment or demonstration project carried out under this provision.
- o Requires GAO to study and recommend as to whether the authority should be permanent.
- o Effective upon enactment.

## Reduction in Disability Benefits Based on Earnings

- o Directs the Commissioner to conduct demonstration projects to evaluate the effects of a \$1 for \$2 withholding of SSDI payments for earnings over a level specified by the Commissioner.
- o Provides that the demonstration projects should determine:
  - the effects, if any, of induced entry and reduced exit;
  - the extent, if any, to which the project being tested is affected by whether it is being conducted in a locality within an area under the administration of the Ticket Program; and,
  - the savings to the Trust Funds and other Federal programs as a result of the project.
- o Requires the Commissioner to determine the annual cost, the reasons for the return to work of beneficiaries who participate in the project, and the employment outcomes of beneficiaries who return to work as a result of participation in the project.
- o Permits the Commissioner to evaluate the merits of the trial work period and the period of extended eligibility as part of the projects.
- o Authorizes the Commissioner to waive compliance with the title II benefit provisions and the Secretary of HHS to waive compliance with the benefit requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.
- o Requires the Commissioner to submit a written report to the House Committee on Ways and Means and the Senate Committee on Finance 90 days prior to the start of a project. Also, requires the Commissioner to submit periodic reports not later than 2 years after the date of enactment, and annually thereafter, on the progress of the project(s) and a final report on all demonstration projects to the Congressional committees not later than 1 year after their completion.

## Funding

- o Provides that expenditures for the demonstration projects be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivor's Insurance Trust Fund as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal

Supplementary Medical Insurance Trust Fund as determined by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

Effective upon enactment.

### Reports and Studies

- o Requires GAO to study:
  - the extent to which existing tax credits and other employer incentives under current law encourage employers to hire and retain individuals with disabilities. A report is due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 3 years after the date of enactment of this Act;
  - the coordination of SSDI and SSI programs as they relate to individuals who are eligible for benefits under both programs, or whose eligibility changes from one program to the other. The study should focus on the effectiveness of work incentives and medical coverage for these individuals. A report is due to the congressional committees not later than 3 years after the date of enactment; and
  - the SGA levels applicable to disabled beneficiaries; whether the levels serve as a disincentive for those returning to work, the merits of increasing SGA levels, and the rationale for not indexing the levels to inflation. A report is due to the congressional committees not later than 2 years after the date of enactment of this Act.
- o Directs the Commissioner to report to the House Ways and Means Committee and the Senate Finance Committee, not later than 90 days after enactment, on all income disregards applicable to beneficiaries under SSDI and SSI programs. The report should specify the most recent statutory or regulatory change in each disregard; estimate the current value of any disregard if the disregard had been indexed for inflation; and recommend any further changes.
- o Effective upon enactment.

## Technical Amendments

### Drug Addicts and Alcoholics (DA&A)

- o Amends the Contract with America Advancement Act of 1996 (P.L. 104-121) to clarify SSA's authority to make SSDI medical redeterminations after January 1, 1997. (A similar SSI provision was included in the Balanced Budget Act of 1997, P.L. 105-33.)
- o Expands the applicability of the provisions in P.L. 104-121, which authorizes the Commissioner to determine if a representative payee would be in the best interest of a disabled beneficiary who is incapable and has a DA&A condition, and whether such individual should be referred to a State agency for substance abuse treatment services.
- o Effective as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (P.L. 104-121).

### Treatment of Prisoners

- o Extends the incentive payment provisions now in effect for SSI prisoners to OASDI, and would authorize the Commissioner to provide, on a reimbursable basis, this reported information to any agency administering a Federal or federally assisted cash, food, or medical assistance program for purpose of determining program eligibility.

Applicable to individuals whose period of confinement in an institution begins on or after the first day of the fourth month beginning after the month of enactment.

- o Eliminates the OASDI requirement that confinement stem from a crime punishable by imprisonment for more than 1 year. Benefits would be suspended for any month during which the person was confined because of a crime or finding of not guilty by reason of insanity except that no monthly benefit would be suspended for any month falling within a period of confinement that lasts for less than 30 days.

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- o Authorizes the Commissioner to charge a penalty equal to 5 percent of the payment and fees if the remittance is received after the required date.
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**VOLUME 2**