



SOCIAL SECURITY

Office of the Commissioner

JUL 19 2000

The Honorable J. Dennis Hastert
Speaker of House
United States House of Representatives
H-232 U.S. Capitol Building
Washington, DC 20515

Dear Mr. Speaker,

Enclosed for the consideration of the Congress is the Social Security Administration's (SSA) draft bill to amend the Social Security Act for purposes of making benefit improvements and improving the integrity of the Social Security and Supplemental Security Income (SSI) programs. Upon enactment the bill would be cited as the "Social Security Amendments of 2000."

An enclosure to this letter discusses all of the proposals in the bill, but I would like to highlight several of the more significant ones.

The draft bill includes proposals that would improve Social Security coverage and benefits. Examples of Social Security benefit improvements are in section 101 which would eliminate the 7-year deadline, generally following the death of the worker, during which a widow(er) must become disabled in order to qualify for disabled widow(er)s benefits and section 111, which would increase the maximum amount a self-employed individual could report as net earnings under the optional reporting method.

Benefit improvements in the SSI program include section 221 that would provide SSI eligibility to disabled children who are born or become disabled overseas while their military personnel parents are on active duty. Additionally, section 201 would repeal the provision that requires a dedicated financial account be set up for children who receive at least 6 months' worth of past-due SSI benefits. Under current law such an account may only be used for specific, restricted expenses of the child, generally not including his or her food, clothing, or shelter.

The public's trust in the Social Security and SSI programs is absolutely critical. Even a perception of program integrity problems can threaten this trust. We have worked strenuously to build quality management of the programs by developing new administrative procedures to prevent and detect program integrity issues. However, there are several situations that cannot be remedied administratively, and this draft bill includes proposals that address those issues.

The proposal in section 312 would authorize the Commissioner to refuse to recognize a representative who has been disbarred, suspended or disqualified from participating in Social

Security programs. With regard to consumer protection, section 311 of the draft bill would require companies that charge for services that SSA provides for free to notify individuals considering purchasing such services that SSA provides the same services for no charge.

It is our responsibility to ensure that individuals who do not meet the eligibility criteria do not receive benefits. One very effective way of improving our administration of the programs involves data matches. Included in this bill is an information sharing proposal in section 321 that would require States having contracts with the Commissioner for the provision of death data to provide the data within 30 days of their receipt.

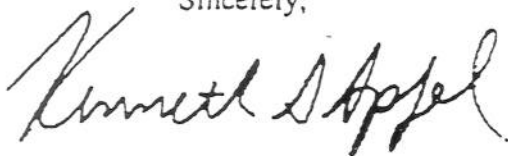
The bill also includes a number of technical corrections that resolve a number of minor and technical issues in previously enacted legislation.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress.

We urge the Congress to give the draft bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Albert Gore, Jr., President of the Senate.

Sincerely,

A handwritten signature in black ink that reads "Kenneth S. Apfel". The signature is written in a cursive, flowing style.

Kenneth S. Apfel
Commissioner
of Social Security

Enclosures



SOCIAL SECURITY

Office of the Commissioner

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President of the Senate
United States Senate
S-212 U.S. Capitol Building
Washington, DC 20510

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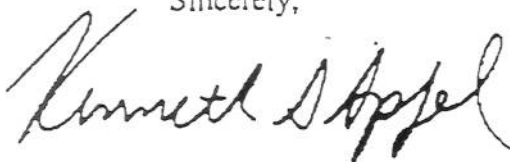
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Commissioner
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Enclosures

Section-by Section Description of the “Social Security Amendments of 2000”

Elimination of the 7-Year Deadline for a Widow or Widower to Qualify for Benefits on the Basis of Disability

Section 101 would eliminate the 7-year period during which a widow(er) must become disabled in order to qualify for disabled widow(er)'s benefits.

The 7-year eligibility period was intended to provide disability protection for widow(er)s until they have a reasonable opportunity after the worker's death to become insured for disability benefits on their own earnings record.

In 1968, when the 7-year eligibility period was enacted, 7 years provided enough time to become insured for disability benefits. This is no longer true; now a worker disabled after age 50 may need more than 7 years of work--up to 10 years depending on his/her age--in order to be insured for disability benefits. Thus, the current provision leaves gaps in the protection of some widow(er)s, because the 7-year period may not afford all of them adequate opportunity to qualify for disability benefits based on their own work records. Eliminating the 7-year period would ensure that all widow(er)s would have the opportunity to work long enough to qualify for disability benefits on their own records, thus eliminating the gaps in protection that occur under present law.

The provision would be effective with respect to applications filed after the month of enactment.

Optional Methods for Computing Net Earnings from Self-Employment

Section 111 would revise the optional method of computing self-employment income so that self-employed persons could receive credit for as many as four QCs in a year, instead of two, as under present law. The new law would provide that: (1) If the gross is 150 percent of the amount needed for four quarters of coverage (QCs) in a year (projected to be \$4,920 in 2001) or less, net earnings would be 2/3 of the gross. (2) If the gross is more than 150 percent of the amount needed for four QCs in a year and the net is less than the amount needed for four QCs, the net would be the amount needed for four QCs (projected to be \$3,280 in 2001).

Increasing the amount of earnings for which self-employed persons could receive credit under the option would enable more self-employed persons to become

insured for Social Security benefits and would increase the amount of benefits payable to them.

The provision would be effective for taxable years beginning after enactment.

Availability of Divided Retirement System Procedure to All States

Section 112 would permit all states to extend Social Security coverage under the divided retirement system procedure to State and local employees who are under a retirement system.

State and local employees who are under a retirement system are covered under Social Security on a group basis at the option of the State if a majority of eligible employees vote in favor of coverage. However, present law allows 21 specified States the option of extending coverage to only those current employees who wish to be covered while automatically covering all future employees, the so-called "divided retirement system". Extending the divided retirement system to all States would eliminate the present unequal treatment of States and facilitate coverage without mandating coverage.

The provision would be effective upon enactment.

Clarification Respecting the FICA and SECA Tax Exemptions for an Individual Whose Earnings Are Subject To the Laws of a Totalization Agreement Partner

Section 113 would provide clear legal authority to exempt a worker's earnings from U.S. Social Security tax in cases where their earnings were subject to a foreign country's laws in accordance with a U.S. totalization agreement, but the foreign country's law does not require compulsory contributions with respect to those earnings.

In U.S. totalization agreements, a person's work is generally subject to the Social Security laws of the country in which the work is performed. Usually, the worker, whether subject to the laws of the United States or the other country, is compulsorily covered and required to pay contributions in accordance with the law of that country. In some instances, however, work that would be compulsorily covered in the U.S. is excluded from compulsory coverage in the other country. The IRS has questioned the exemption from U.S. Social Security tax in these cases. This provision would remove any question regarding the exemption and would be consistent with the general philosophy behind the coverage rules of totalization agreements.

The provision would be effective for earnings from work performed while any U.S. totalization agreement is in effect.

Quinquennial Adjustments Respecting Deemed Military Wage Credits

Section 114 would extend the 30 day period for the monetary transfer resulting from the determination of the amounts that should be transferred among the general fund of the Treasury and the Social Security Trust Funds to adjust previous reimbursements to the trust funds for the cost of granting noncontributory deemed wage credits for military service performed from September 16, 1940, through December 31, 1956 to one year and provide for interest payments for transfers that occur after the determination is made. The current 30-day requirement does not allow enough time for the necessary appropriation to occur, and the lack of provision for interest on delayed transfers results in a loss to the fund receiving the transfer.

The provision would be effective upon enactment.

Military Wage Credits

Section 115 would terminate deemed military wage credits for active duty military service, except for earnings below the grade of E-6 in the case of service members who die or become disabled before attainment of age 47 if, at the time the wage credits are used in the computation, the service member had fewer than 6 years of military service.

The provision would be effective for deemed military wage credits that would be credited to a workers' earnings record for 2002 and later.

Technical Correction Respecting Responsible Agency Head

Section 121 would change "Secretary" to "Commissioner" wherever it appears in section 1143 regarding responsibility for Social Security Account statements. The change would correct the previous oversight in section 107 of P.L. 103-296 that replaced references to the "Secretary" with "Commissioner" in titles II, XVI, and other appropriate sections of the Social Security Act.

The provision would be effective as if it were included in the enactment of section 107 of P.L. 103-296 (that is, March 31, 1995).

Technical Correction Respecting Domestic Employment

Section 122 would provide that references to domestic employment be removed from the provisions in the law that define agricultural employment and the provisions that define domestic employment would specify that domestic employment includes domestic service performed on a farm.

Domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural employees rather than the coverage threshold for domestic employees. In 1994, when the Congress amended the law with respect to domestic employment, intending that domestic employment on a farm would become subject to the coverage threshold applicable to other domestic employees. However, the wording of the law is ambiguous. Both the coverage threshold for agricultural employees and the coverage threshold for domestic employees appear to apply to domestic employees on a farm.

The provision would be effective upon enactment.

Technical Correction of Outdated References

Section 123 would correct various outdated references in the Social Security Act and related laws. Over the years, provisions of the Social Security Act, the Internal Revenue Code, and other laws have been deleted, re-designated, or otherwise amended. However, necessary conforming changes have not always been made. Consequently, Social Security law includes some outdated references. For example, section 3102(a) of the Internal Revenue Code (pertaining to the deduction of Social Security taxes from a worker's wages) still refers to a 20-day work test for Social Security coverage of agricultural labor that was deleted from the Social Security Act in 1987.

The provision would be effective upon enactment.

Technical Correction Respecting Self-Employment in Community Property States

Section 124 would conform the provision in the Social Security Act and the Internal Revenue Code to current practice in both community property and non-community property States--to provide that income from a trade or business that is not a partnership will be taxed and credited to the spouse who is carrying on the trade or business

The Social Security Act and the Internal Revenue Code include a provision under which, in the absence of a partnership, all self-employment income from a trade or business operated by a married person in a community property State is deemed to be the husband's unless the wife exercises substantially all the management and control of the trade or business. This provision was found to be unconstitutional in several court cases in 1980. Subsequently, income from a trade or business that is not a partnership in a community property State has been treated like income from a trade or business in a non-community property State – it is taxed and credited to the spouse who is found to be carrying on the business. However, no change has been made to the law to remove the unconstitutional provision.

The provision would be effective upon enactment.

Technical Correction Respecting Retirement Benefits of Ministers

Section 125 would provide a conforming change would be made to the Social Security Act to exclude certain benefits received by retired ministers and members of religious orders for Social Security benefit purposes as well as Social Security tax purposes.

Elimination of the Dedicated Account Requirement

Section 201 would eliminate the requirement that past-due benefits greater than six times the maximum monthly benefit be deposited in a special account and be used only for certain specified purposes. For individuals with dedicated accounts already established under the repealed provision, permit the accounts to be excluded from the eligible individual's resources until the first day of the 18th month after the month of enactment. The interest or other earnings on such accounts also would be excluded from income during the same period.

There is little evidence that representative payees, who are mostly parents of the disabled child, use past-due benefits for purposes that are not in the child's best interest. The dedicated account provision is viewed negatively by parents and advocates of disabled children due to the conflict between the rigid nature of the uses permitted under the law and the unpredictable nature of the needs of disabled children.

The provision would be effective beginning with the month after the sixth month of enactment.

Uniform 9-Month Resource Exclusion Periods

Section 202 would increase and make uniform at 9 months the period for excluding from beneficiaries' countable resources amounts attributable to underpayments of Social Security and Supplemental Security Income benefits and annual lump-sum earned income tax credits. The current resource exclusion periods range from 1 to 9 months and are intended to allow beneficiaries sufficient time to meet outstanding obligations or needs before the sums become countable and might cause SSI ineligibility. There is no program reason for differing periods for these exclusions, and uniformity would simplify SSI administration and public understanding of the program rules.

The provision would be effective 90 days after enactment.

Conforming Changes Related to the Exclusion of Disaster-Related Assistance From Income and Resources

Section 203 would eliminate the time limits on all of the exclusions and expand the exclusions to cover disaster assistance provided by States, local governments, and disaster assistance organizations. It also would make the exclusion of support and maintenance received by an individual living in a private household from sources other than Federal, State, or local governments or disaster assistance organizations applicable for as long as the individual has not decided to remain permanently in another person's household. The provision would conform outdated language in SSI law with the language in the "Disaster Relief and Emergency Assistance Act of 1998."

The provision would be effective upon enactment.

Removal of Restriction on Payment of Benefits to Children Who Become Blind and Disabled After Their Military Parents Are Stationed Overseas

Section 221 would expand SSI eligibility to include blind and disabled children who are born to or who first apply for benefits while residing with parents who are military personnel stationed outside the United States. Currently, children of military personnel stationed overseas may be eligible for SSI if they received SSI while they were in the United States. Such an extension would eliminate the disparate treatment of children of military personnel who were born or became blind or disabled outside of the United States.

The provision would be effective 6 months following the month of enactment.

Technical Clarification Regarding Terminations After Redeterminations

Section 231 would make a technical amendment to section 1631(e)(7)(C), which provides that the Commissioner may terminate an individual's SSI eligibility after a redetermination, if insufficient evidence exists to support eligibility. The provision is intended to apply only in cases of redeterminations conducted because of the suspicion of fraud or similar fault, but has been read to apply to any redeterminations. The proposal would clarify that termination after redeterminations apply only in cases in which fraud is suspected.

The provision would be effective upon enactment.

Clarification Respecting Judicial Authority To Remand Cases to the Commissioner

Section 301 would clarify that courts have the authority to remand a civil suit after the Agency has filed an answer to the plaintiff's complaint.

In some cases, SSA, upon further consideration, decides that a case should not be defended on the record before the court. Although many courts interpret the statute to provide remand authority after a response has been filed, some courts prohibit Agency-requested remands after SSA has responded to a complaint. This proposal would clarify the statute to allow SSA to correct obvious deficiencies in the record and timely respond to civil actions.

The proposal would be effective upon enactment.

Elimination of Transcript Requirement in Remand Cases Fully Favorable to the Claimant

Section 302 would clarify that SSA is not required to file a full transcript with the court when a decision fully favorable to the claimant is issued by SSA following a court remand for further administrative proceedings.

There is no compelling need for the court to have a transcript of additional records and testimony upon which the Commissioner has made a fully favorable decision in a case remanded by the court for further administrative proceeding.

The proposal would be effective upon enactment.

Require Companies to Notify Consumers if They Charge Fees For Services Provided For Free By SSA

Section 311 would amend Section 1140 by adding a mandatory requirement that persons or companies include in their solicitations a statement that services, which they provide for a fee, are available directly from SSA free of charge. The statements would be required to comply with standards promulgated by the Commissioner of Social Security with respect to their content, placement, visibility, and legibility. Such a requirement would ensure that customers give informed consent for receiving the services.

The provision would be effective upon enactment.

Refusal To Recognize Certain Individuals As Claimant Representatives

Section 312 would amend section 206(a)(1) to provide authority to the Commissioner to, with notice and an opportunity to respond, refuse to recognize a representative and disqualify a representative already recognized, who has been disbarred, suspended, or disqualified from participating in or appearing before any Federal program or agency.

Under current law, an attorney disbarred in one jurisdiction but licensed to practice in another must be recognized as a claimant's representative. This streamlined procedure would provide the representative notice and an opportunity to be heard in his or her defense, but would limit issues to those that are relevant to disbarment.

The proposal would be effective upon enactment.

Elimination of Commissioner of Social Security's Authority to Recommend Medicare Exclusion of Medical Providers and Physicians

Section 313 would provide that the Commissioner notify the Secretary of HHS when a determination to impose a civil monetary penalty (CMP) or assessment against a physician or medical provider becomes final, instead of recommending that the Secretary exclude the physician or provider from Medicare.

The Commissioner, in a proceeding to determine whether to impose a CMP or assessment against a physician or medical provider for submitting false statements or representations, or omissions of material fact for use in determining any right to or amount of benefits under Social Security or SSI, may

also make a determination to recommend that the Secretary of HHS exclude the physician or medical provider from the Medicare program.

The law requires that a person against whom a penalty, assessment, or recommended exclusion is being considered – be given written notice of the proposed action and an opportunity for a determination to be made on the record after a hearing at which he may be represented by counsel, present witnesses, and cross-examine witnesses. Revising the law to provide that SSA notify HHS that penalties or assessments have been imposed against a physician or medical provider would remove SSA from making determinations regarding Medicare program policy and would result in these issues being considered by HHS, which has oversight over Medicare.

The provision would be effective as if included in the Social Security Independence and Program Improvements Act of 1994.

Accelerated Provision of State Death Data

Section 321 would require States having contracts with the Commissioner for the provision of death data to provide the data within 30 days of its receipt.

The provision would be effective upon enactment.

A B I L L

To amend the Social Security Act and related laws to make various improvements in the old-age, survivors, and disability insurance program and the supplemental security income program, 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 "Social Security Amendments of 2000".

(b) Table of Contents.--The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I--PROVISIONS AFFECTING THE
FEDERAL OLD-AGE, SURVIVORS,
AND DISABILITY INSURANCE PROGRAM

Subtitle A--Program Improvement

Sec. 101. Elimination of the 7-year deadline for a widow or widower to qualify for benefits on the basis of disability.

Subtitle B--Program Equity

Sec. 111. Optional methods for computing net earnings from self-employment.

Sec. 112. Availability of divided retirement system procedure to all states.

Sec. 113. Clarification respecting the FICA and SECA tax exemptions for an individual whose earnings are subject to the laws of a totalization agreement partner.

Sec. 114. Quinquennial adjustments respecting deemed military wage credits.

Sec. 115. Military Wage Credits.

Subtitle C--Technical Amendments

- Sec. 121. Technical correction respecting responsible agency head.
- Sec. 122. Technical correction respecting domestic employment.
- Sec. 123. Technical corrections of outdated references.
- Sec. 124. Technical correction respecting self-employment income in community property states.
- Sec. 125. Technical correction respecting retirement benefits of ministers.

TITLE II--PROVISIONS AFFECTING THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Subtitle A--Program Improvement

- Sec. 201. Elimination of the dedicated account requirement.
- Sec. 202. Uniform 9-month resource exclusion periods.
- Sec. 203. Conforming changes related to the exclusion of disaster-related assistance from income and resources.

Subtitle B--Program Equity

- Sec. 221. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Subtitle C--Technical Amendment

- Sec. 231. Technical clarification.

TITLE III--PROVISIONS AFFECTING THE
FEDERAL OLD-AGE, SURVIVORS, AND
DISABILITY INSURANCE PROGRAM, AND THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Subtitle A--Program Improvement

- Sec. 301. Clarification respecting judicial authority to remand cases to the Commissioner of Social Security.
- Sec. 302. Elimination of transcript requirement in remand cases fully favorable to the claimant.

Subtitle B--Program Integrity

- Sec. 311. Requirements respecting offers to provide for a fee a product or service available without charge from the Social Security Administration.
- Sec. 312. Refusal to recognize certain individuals as claimant representatives.
- Sec. 313. Elimination of Commissioner of Social Security's authority to recommend Medicare exclusion of medical providers and physicians.

Subtitle C--Administrative Improvements

- Sec. 321. Accelerated provision of State death data.

TITLE I--PROVISIONS AFFECTING THE
FEDERAL OLD-AGE, SURVIVORS,
AND DISABILITY INSURANCE PROGRAM

Subtitle A--Program Improvement

SEC. 101. ELIMINATION OF THE 7-YEAR DEADLINE FOR A WIDOW OR WIDOWER TO QUALIFY FOR BENEFITS ON THE BASIS OF DISABILITY.

(a) In General.--

(1) Widows.--Section 202(e) of the Social Security Act is amended--

(A) in paragraph (1)(B)(ii), by striking "which began before the end of the period specified in paragraph (4)";

(B) in paragraph (1)(F)(ii), by striking "(I) in the period specified in paragraph (4) and (II)"; and

(C) by striking paragraph (4).

(2) Widowers.--Section 202(f) of such Act is amended--

(A) in paragraph (1)(B)(ii), by striking "which began before the end of the period specified in paragraph (5)";

(B) in paragraph (1)(F)(ii), by striking "(I) in

the period specified in paragraph (5) and (II)"; and

(C) by striking paragraph (5).

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of the enactment of this Act on the basis of applications filed after such date.

Subtitle B--Program Equity

SEC. 111. OPTIONAL METHODS FOR COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) Amendments to the Internal Revenue Code of 1986.--

(1) In general.--Section 1402(h) of such Code is amended to read as follows:

"(h) Optional Method for Computing Net Earnings from Self-Employment.--

"(1) Individuals.--In the case of any trade or business which is carried on by an individual--

"(A) if the gross income derived by the individual from such trade or business is not more than the upper limit for the taxable year and the net earnings from self-employment derived by the individual from such trade or business (computed under subsection (a) without regard to this sentence) are less than 66-2/3 percent of such gross income, the net earnings from self-employment derived by the individual from such trade or business may, at the individual's option, be deemed to be 66-2/3 percent of such gross income, or

"(B) if the gross income derived by the individual

from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by the individual from such trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by the individual from such trade or business may, at the individual's option, be deemed to be the lower limit for the taxable year.

"(2) Member of a partnership.--In the case of a member of a partnership carrying on any trade or business--

"(A) if the member's distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is not more than the upper limit for the taxable year and the member's distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than $66\frac{2}{3}$ percent of the member's distributive share of such gross income (after such gross income has been so reduced), the member's distributive share of income described in section 702(a)(8) derived from such trade or business may, at the member's option, be deemed to be an amount equal to

66-2/3 percent of the member's distributive share of such gross income (after such gross income has been so reduced), or

"(B) if the member's distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than the upper limit for the taxable year and the member's distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, the member's distributive share of income described in section 702(a)(8) derived from such trade or business may, at the member's option, be deemed to be the lower limit for the taxable year.

"(3) Upper and lower limits.--For purposes of this subsection--

"(A) Lower limit.--The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(B) Upper limit.--The upper limit for any taxable year is the amount equal to 150 percent of the lower

limit for such taxable year.

"(4) Determination of gross income.--For purposes of this subsection, the term 'gross income' means--

"(A) in the case of any trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of subsection (a), and

"(B) in the case of any trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraphs (9) of subsection (a).

"(5) Income derived from more than one trade or business.--For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

"(6) Election.--The option under this subsection shall be allowed for any taxable year only if elected on the first return filed for such taxable year."

(2) Conforming amendment.--Section 1402(a) of such Code is amended by striking all that follows the first sentence following paragraph (15) and inserting "For optional method of determining net earnings from self-employment, see subsection (h).".

(b) Amendments to the Social Security Act.--

(1) In general.--Section 211(g) of such Act is amended to read as follows:

"(g) Optional Method for Computing Net Earnings from Self-Employment.--

"(1) Individuals.--In the case of any trade or business which is carried on by an individual--

"(A) if the gross income derived by the individual from such trade or business is not more than the upper limit for the taxable year and the net earnings from self-employment derived by the individual from such trade or business (computed under subsection (a) without regard to this sentence) are less than $66\frac{2}{3}$ percent of such gross income, the net earnings from self-employment derived by the individual from such trade or business may, at the individual's option, be deemed to be $66\frac{2}{3}$ percent of such gross income, or

"(B) if the gross income derived by the individual from such trade or business is more than the upper limit for the taxable year and the net earnings from self-employment derived by the individual from such

trade or business (computed under subsection (a) without regard to this sentence) are less than the lower limit for the taxable year, the net earnings from self-employment derived by the individual from such trade or business may, at the individual's option, be deemed to be the lower limit for the taxable year.

"(2) Member of a partnership.--In the case of a member of a partnership carrying on any trade or business--

"(A) if the member's distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of the Internal Revenue Code of 1986 applies) is not more than the upper limit for the taxable year and the member's distributive share (whether or not distributed) of income described in section 702(a)(8) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than 66-2/3 percent of the member's distributive share of such gross income (after such gross income has been so reduced), the member's distributive share of income described in section 702(a)(8) derived from such trade or business may, at the member's option, be deemed to be an amount equal to 66-2/3 percent of the member's distributive share of such gross income (after such gross income has been so

reduced), or

"(B) if the member's distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) of such Code applies) is more than the upper limit for the taxable year and the member's distributive share (whether or not distributed) of income described in section 702(a)(8) of such Code derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit for the taxable year, the member's distributive share of income described in section 702(a)(8) of such Code derived from such trade or business may, at the member's option, be deemed to be the lower limit for the taxable year.

"(3) Upper and lower limits.--For purposes of this subsection--

"(A) Lower limit.--The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(B) Upper limit.--The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.

"(4) Determination of gross income.--For purposes of this subsection, the term 'gross income' means--

"(A) in the case of any trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (6) and paragraph (8) of subsection (a), and

"(B) in the case of any trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (6) and paragraphs (8) of subsection (a).

"(5) Income derived from more than one trade or business.--For purposes of this subsection, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

"(6) Election.--The option under this subsection shall be allowed for any taxable year only if elected in accordance with the provisions of section 1402(h) of the Internal Revenue Code of 1986."

(2) Conforming amendments.--

(A) Section 211(a) of such Act is amended by striking all that follows the first sentence following paragraph (15) and inserting "For optional method of determining net earnings from self-employment, see subsection (g).".

(B) Section 212 of such Act is amended--

(i) in subsection (b), by striking "For" and inserting "Except as provided in subsection (c), for"; and

(ii) adding at the end a new subsection as follows:

"(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in paragraph (1)(B) or (2)(B) of section 211(g) for any taxable year that does not begin with or during a calendar year and does not end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(g)(3)(A).".

(c) Effective Date.--The amendments made by this section

shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 112. AVAILABILITY OF DIVIDED RETIREMENT SYSTEM PROCEDURE TO ALL STATES.

(a) In General.--Section 218(d)(6)(C) of the Social Security Act is amended in the first sentence--

(1) by striking "the State of Alaska" and all that follows through "Hawaii" and inserting "a State"; and

(2) by striking "any such State" and inserting "a State".

(b) Conforming Amendment.--Section 218(g)(2) of such Act is amended in the third sentence by striking "the States to which the provisions of subsection (d)(6)(C) apply" and inserting "a State under subsection (d)(6)(C)".

SEC. 113. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking "to taxes or contributions for similar purposes under" and inserting "exclusively to the laws applicable to".

SEC. 114. QUINQUENNIAL ADJUSTMENTS RESPECTING DEEMED MILITARY WAGE CREDITS.

Section 217(g)(2) of the Social Security Act is amended in the second sentence--

(1) by striking "30 days" and inserting "one year"; and

(2) by inserting "(including interest)" after "such amounts".

SEC. 115. MILITARY WAGE CREDITS.

(a) Termination of Automatic, Across-the-Board Wage Credits.--

(1) Termination of wage credit.--Section 229(a)(2) of the Social Security Act is amended by inserting "and before 2002" after "after 1977".

(2) Termination of annual funding authority.--Section 229(b) of such Act is amended in the first sentence by inserting "before 2002" after "each calendar year".

(3) Requirement for final accounting.--Section 229(b) of such Act is amended by adding at the end the following: "No later than June 1, 2004, the Commissioner of Social Security shall determine whether and the extent, if any, to which amounts transferred to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under this subsection for fiscal years ending prior to January 1, 2002, were in excess of or less than the amounts required to be so transferred. No later than 30 days following the Commissioner's determination, the Secretary of the Treasury shall transfer from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, or from such Trust Fund to the general fund of the Treasury, such amount or amounts (if any) that the Commissioner determines to be appropriate."

(b) Military Wage Credit for Short-Term Enlisted Service

Members Who Die or Become Disabled Before Age 47.--Section 229 of such Act is amended by adding at the end the following:

"(c) (1) For purposes of determining entitlement to and the amount of any benefit for any month, or entitlement to any lump-sum death payment, payable under this title on the basis of the wages and self-employment income of any individual--

"(A) who is dead or under a disability (as defined in section 223(d)),

"(B) whose death or date of onset of such disability occurred prior to the individual's attainment of age 47, and

"(C) who, prior to death or the date of onset of such disability, performed fewer than 6 years service as a member of a uniformed service (as defined in section 210(m)) that was included in the term 'employment' as defined in section 210(a) as a result of the provisions of section 210(1)(1)(A),

there shall be deemed to have been paid to such individual in each calendar year occurring after 2001 in which such individual was paid wages for the service described in subparagraph (C) at a basic pay grade below E-6, additional wages of \$100 for each \$300 of wages paid for the service described in subparagraph (C), up to a maximum of \$1200 of additional wages for any calendar year.

"(2) (A) Whenever the Commissioner computes the primary insurance amount of an individual described in paragraph (1) for the purpose of determining the amount of a monthly benefit payable on the basis of such individual's wages and self-

employment income, the Commissioner shall additionally calculate, with respect to each calendar year (not previously subject to a calculation under this subparagraph) in which additional wages are deemed to have been paid to such individual (under paragraph (1)) that is also a benefit computation year (as defined in section 215(b)(2)(B)) used in the computation of such primary insurance amount, the total of--

"(i) the amounts that would have been appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under section 201 if such deemed additional wages had constituted wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) for purposes of the taxes imposed by sections 3101 and 3111 of such Code in such calendar year, and

"(ii) such additional amounts necessary to place such Trust Funds in the position, as of the last day of the calendar year in which the Commissioner so computes such individual's primary insurance amount, as they would have been in on such day had the amounts described in clause (i) been appropriated to such Trust Funds under section 201 in a timely manner.

"(B) No later than July 1 of the year 2003 and each year thereafter, the Commissioner shall notify the Secretary of the Treasury of the total, with respect to each such Trust Fund, of all amounts calculated by the Commissioner under subparagraph (A) during the preceding calendar year. Within 30 days following

notification by the Commissioner, the Secretary of the Treasury shall transfer the amount so calculated with respect to each such Trust Fund to such Trust Fund from amounts in the general fund of the Treasury not otherwise appropriated. Proper adjustment shall be made in amounts required to be transferred with respect to any calendar year to the extent that the Commissioner determines, on the basis of appropriate data, that amounts calculated and transferred with respect to any earlier year were less than, or in excess of, the amount required to be so calculated and transferred.

"(3) The head of each uniformed service described in section 210(m) shall report to the Commissioner, in such form and within such time frame as the Commissioner may specify, such information as the Commissioner may require for the purpose of carrying out this subsection."

Subtitle C--Technical Amendments

SEC. 121. TECHNICAL CORRECTION RESPECTING RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act is amended by striking "Secretary" each place it appears and inserting "Commissioner of Social Security".

SEC. 122. TECHNICAL CORRECTION RESPECTING DOMESTIC EMPLOYMENT.

(a) Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking "described in subsection (g)(5)" and inserting "on a farm operated for profit".

(b) Section 209(a)(6)(B) of the Social Security Act is amended by striking "described in section 210(f)(5)" and

inserting "on a farm operated for profit".

(c) Sections 3121(g)(5) of such Code and 210(f)(5) of such Act are amended by striking "or is domestic service in a private home of the employer".

SEC. 123. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) Correction of Terminology and Citations Respecting Removal from the United States.--Section 202(n) of the Social Security Act is amended--

(1) by striking "deportation" each place it appears and inserting "removal";

(2) by striking "deported" each place it appears and inserting "deported";

(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking "section 241(a)" and inserting "section 237(a) or 212(a)(6)(A)";

(4) in paragraph (2), by striking "any of the paragraphs of section 241(a)" and inserting "section 237(a) or 212(a)(6)(A)";

(5) in paragraph (3)--

(A) by striking "paragraph (19) of section 241(a)" and inserting "section 237(a)(4)(D)", and

(B) by striking "paragraph (19)" and inserting "section"; and

(6) in the heading, by striking "Deportation" and inserting "Removal".

(b) Correction of Citation Respecting the Tax Deduction

Relating to Health Insurance Costs of Self-Employed Individuals.--Section 211(a)(15) of such Act is amended by striking "section 162(m)" and inserting "section 162(l)".

(c) Elimination of Reference to Obsolete 20-Day Agricultural Work Test.--Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking "and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis".

SEC. 124. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) Social Security Act Amendment.--Section 211(a)(5)(A) of the Social Security Act is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business;".

(b) Internal Revenue Code of 1986 Amendment.--Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking "all of the gross income" and all that follows and inserting "the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business; and".

SEC. 125. TECHNICAL CORRECTION RESPECTING RETIREMENT BENEFITS OF MINISTERS.

(a) In General.--Section 211(a)(7) of the Social Security Act (defining net earnings from self-employment) is amended by

inserting ", but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires" before the semi-colon at the end.

(b) Effective Date.--The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

TITLE II--PROVISIONS AFFECTING THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Subtitle A--Program Improvement

SEC. 201. ELIMINATION OF THE DEDICATED ACCOUNT REQUIREMENT.

(a) In General.--Section 1631(a)(2) of the Social Security Act is amended--

- (1) by striking subparagraph (F); and
- (2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(b) Transitional Treatment of Funds Previously Subject to the Dedicated Account Requirement.--

- (1) In determining the resources of an individual (and the individual's eligible spouse, if any) there shall be excluded during the period specified in paragraph (3) any amount held, at the close of the day preceding the date of the enactment of this Act, in an account established and

maintained in accordance with section 1631(a)(2)(F) (as in effect on such day).

(2) The interest or other earnings of an account described in paragraph (1) shall be excluded from income during the period specified in paragraph (3).

(3) The period specified in this paragraph begins on the date of the enactment of this Act and ends on the last day of the seventeenth month beginning on or after such date of enactment.

(c) Conforming Amendments.--

(1) Section 1612(b) of such Act is amended--

(A) by adding "and" at the end of paragraph (20);

(B) by striking paragraph (21);

(C) by redesignating paragraph (22) as paragraph (21).

(2) Section 1613(a) of such Act is amended--

(A) by adding "and" at the end of paragraph (11);

(B) by striking paragraph (12); and

(C) by redesignating paragraph (13) as paragraph (12).

SEC. 202. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) In General.--Section 1613(a) of the Social Security Act is amended--

(1) in paragraph (7), by striking "6" and inserting "9" and by striking "(or to the first 9 months following such month with respect to any amount so received during the

period beginning Oct. 1, 1987, and ending Sept. 30, 1989)";
and

(2) in paragraph (11) (as previously amended by section 201(c)(2)(A))--

(A) by inserting "(A)" after "(11)";

(B) by striking "month of receipt and the following month" and inserting "nine months following the month in which it is received"; and

(C) by inserting "(B) for the month following the month of receipt," before "any payment".

(b) Effective Date.--The amendments made by this section shall take effect on the first day of the first month beginning at least 90 ninety days after the date of the enactment of this Act, and shall apply to--

(1) amounts described in paragraph (7) of section 1613(a) of the Social Security Act, and

(2) refunds of federal income taxes described in paragraph (11)(A) of such section,

that are received by an eligible individual or eligible spouse on or after such date.

SEC. 203. CONFORMING CHANGES RELATED TO THE EXCLUSION OF
DISASTER-RELATED ASSISTANCE FROM INCOME AND
RESOURCES.

(a) Exclusion from Income.--

(1) Section 1612(b)(11) of the Social Security Act is amended by striking "assistance received under the Disaster Relief and Emergency Assistance Act" and inserting "federal

financial or other assistance received pursuant to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or comparable assistance received from a State, local or tribal government, or disaster assistance organization;" .

(2) Section 1612(b)(12) of such Act is amended by striking "within the 9-month period" and all that follows and inserting instead a semi-colon.

(b) Exclusion from Resources.--Section 1613(a)(6) of such Act is amended by striking "for the 9-month period" and all that follows through "includes" and inserting instead "and any".

(c) Treatment of In-Kind Support and Maintenance Received by Individuals Displaced from Their Homes.--Section 1612(a)(2)(A)(iii) of such Act is amended--

(1) by inserting "on a temporary basis" after "while living" the first place such phrase appears;

(2) by striking "ceases" and all that follows through "if," and inserting instead "ceases to regard such living arrangement as temporary or ceases to receive such support and maintenance if,"; and

(3) by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act".

Subtitle B--Program Equity

SEC. 221. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) In General.--Section 1614(a)(1)(B)(ii) of the Social Security Act is amended by striking ", and who," and all that follows and inserting a period.

(b) Effective Date.--The amendment made by subsection (a) shall take effect on the first day of the sixth month that begins after the date of the enactment of this Act, and shall apply with respect to benefits payable for months beginning on or after such day.

Subtitle C--Technical Amendment

SEC. 231. TECHNICAL CLARIFICATION.

Section 1631(e)(7)(C) of the Social Security Act is amended by inserting "pursuant to this paragraph" after "redetermining".

TITLE III--PROVISIONS AFFECTING THE
FEDERAL OLD-AGE, SURVIVORS, AND
DISABILITY INSURANCE PROGRAM, AND THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Subtitle A--Program Improvement

SEC. 301. CLARIFICATION RESPECTING JUDICIAL AUTHORITY TO REMAND CASES TO THE COMMISSIONER OF SOCIAL SECURITY.

(a) In General.--Section 205(g) of the Social Security Act is amended in the sixth sentence by striking "before the Commissioner files the Commissioner's answer".

(b) Effective Date.--The amendment made by this section shall take effect on the date of the enactment of this Act, and shall apply to cases pending on or after such date.

SEC. 302. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

Section 205(g) of the Social Security Act (as previously

amended by section 303) is further amended in the sixth sentence by striking "and a transcript" and inserting "and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript".

Subtitle B--Program Integrity

SEC. 311. REQUIREMENTS RESPECTING OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) In General.--Section 1140 of the Social Security Act is amended--

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) (A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that--

"(i) explains that the product or service is available free of charge from the Social Security Administration, and

"(ii) complies with standards prescribed by the Commissioner of Social Security respecting content, placement, visibility, and legibility.

"(B) Subparagraph (A) shall not apply to any offer--

"(i) to serve as a claimant representative in connection with a claim arising under title II or title XVI;
or

"(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self support under title XVI."; and

(2) in the title, by striking "PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE" and inserting "PROHIBITIONS RESPECTING REFERENCES".

(b) Effective Date.--The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer.

SEC. 312. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act is amended by inserting after the second sentence the following:

"Notwithstanding the preceding sentences, the Commissioner may refuse to recognize as a representative, and disqualify a representative already recognized, who has been disbarred or suspended from any court or bar to which he or she was previously admitted or disqualified from participating in or appearing before any Federal program or agency, and the Commissioner may refuse to recognize or disqualify as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or

receiving a fee in excess in the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe."

SEC. 313. ELIMINATION OF COMMISSIONER OF SOCIAL SECURITY'S
AUTHORITY TO RECOMMEND MEDICARE EXCLUSION OF
MEDICAL PROVIDERS AND PHYSICIANS.

Section 1129 of the Social Security Act (as previously amended by sections 311(a)(2) and 313) is further amended--

(1) in subsection (a)(1)(A) (as redesignated by section 311(a)(2)(A)), by striking the last sentence;

(2) in subsection (b)(1) (as previously amended by section 311(a)(2)(B)), by striking "or whether to recommend exclusion under subsection (a)";

(3) in subsection (c), by striking "or whether to recommend an exclusion,";

(4) in subsection (f), by striking ", or to recommend an exclusion"; and

(5) in subsection (k), by striking ", and for an exclusion under section 1128 based on a recommendation under subsection (a),".

Subtitle C--Administrative Improvements

SEC. 321. ACCELERATED PROVISION OF STATE DEATH DATA.

(a) In General.--Section 6103(d)(4)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting "within 30 days following such filing" after "it".

(b) Technical Amendments.--Subparagraphs (A) and (B) of section 6103(d)(4) of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Commissioner of Social Security".