

SOCIAL SECURITY NUMBER PRIVACY AND IDENTITY THEFT  
 PREVENTION ACT OF 2000

OCTOBER 24, 2000.—Ordered to be printed

Mr. ARCHER, from the Committee on Ways and Means,  
 submitted the following

R E P O R T

[To accompany H.R. 4857]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4857) to amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the Social Security account number, and to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, and for other purposes, 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 all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Social Security Number Privacy and Identity Theft Prevention Act of 2000”.

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

Sec. 1. Short title and table of contents.  
Sec. 2. Findings.

**TITLE I—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PUBLIC SECTOR**

Sec. 101. Restrictions on the sale of social security account numbers by governmental agencies.  
Sec. 102. Prohibition of public access to social security account numbers possessed by governmental agencies.  
Sec. 103. Prohibition of display of social security account number on checks issued for payment by governmental agencies.  
Sec. 104. Prohibition of appearance of social security account numbers on driver’s licenses or motor vehicle registrations.  
Sec. 105. Prohibition of display by governmental agencies of personal identification numbers.  
Sec. 106. Prohibition of inmate access to social security account numbers.  
Sec. 107. Independent verification of birth records provided in support of applications for social security account numbers.  
Sec. 108. Report by General Accounting Office on use by governmental agencies as personal identification numbers.

TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PRIVATE SECTOR

- Sec. 201. Regulation of the sale and purchase of the social security account number in the private sector.  
 Sec. 202. Refusal to do business without receipt of social security account number considered unfair or deceptive act or practice.  
 Sec. 203. Confidential treatment of credit header information.

TITLE III—ENFORCEMENT

- Sec. 301. New criminal penalties for misuse of social security account numbers.  
 Sec. 302. New criminal penalty for sale or purchase of social security account numbers.  
 Sec. 303. Extension of civil monetary penalty authority.  
 Sec. 304. Authority for judicial orders of restitution.  
 Sec. 305. Law enforcement authority for the Office of the Inspector General of the Social Security Administration.

TITLE IV—PROVISIONS RELATING TO REPRESENTATIVE PAYEES

- Sec. 401. Authority to reissue benefits misused by organizational representative payees.  
 Sec. 402. Oversight of representative payees.  
 Sec. 403. Disqualification from service as representative payee upon conviction of offenses resulting in imprisonment for more than 1 year.  
 Sec. 404. Fee forfeiture in case of benefit misuse by representative payees.  
 Sec. 405. Liability of representative payees for misused benefits.  
 Sec. 406. Extension of civil monetary penalty authority with respect to representative payees.  
 Sec. 407. Authority to redirect delivery of benefit payments when a representative payee fails to provide required accounting.

TITLE V—MISCELLANEOUS AND TECHNICAL AMENDMENTS

- Sec. 501. Technical correction relating to responsible agency head.  
 Sec. 502. Technical correction relating to domestic employment.  
 Sec. 503. Technical corrections of outdated references.  
 Sec. 504. Technical correction relating to retirement benefits of ministers.  
 Sec. 505. Requirements relating to offers to provide for a fee a product or service available without charge from the Social Security Administration.  
 Sec. 506. Funding of demonstration projects providing for reductions in disability insurance benefits based on earnings.  
 Sec. 507. Optional Federal administration of State recognition payments.  
 Sec. 508. Military wage credits.

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) The inappropriate sale or purchase of social security account numbers is a significant factor in a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security account numbers to confirm the identity of an individual, the sale or purchase of these numbers often facilitates the commission of criminal activities, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security account number in order to pay taxes, to qualify for Social Security benefits, or to seek employment. An unintended consequence of these requirements is that social security account numbers have become tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit persons to exempt themselves from those requirements, it is appropriate for the Government to take steps to stem the abuse of this system.

(4) A social security account number is simply a sequence of numbers. In no meaningful sense can the number itself impart knowledge or ideas. Persons do not sell or transfer such numbers in order to convey any particularized message, nor to express to the purchaser any ideas, knowledge, or thoughts.

(5) A social security account number does not contain, reflect, or convey any publicly significant information or concern any public issue. The sale of such numbers in no way facilitates uninhibited, robust and wide-open public debate; and restrictions on such sale would not affect public debate.

(6) No one should seek to profit from the sale of social security account numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(7) Consequently, Congress should enact legislation that will offer individuals assigned such numbers necessary protection from the sale and purchase of social security account numbers in circumstances that might facilitate unlawful conduct or that might otherwise likely result in unfair or deceptive practices.

## TITLE I—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PUBLIC SECTOR

### SEC. 101. RESTRICTIONS ON THE SALE OF SOCIAL SECURITY ACCOUNT NUMBERS BY GOVERNMENTAL AGENCIES.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

“(x) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof (or person acting as an agent of such an agency or instrumentality) in possession of any individual’s social security account number may accept an item of material value in exchange for such number, or any derivative thereof. Notwithstanding the preceding sentence, such number (or derivative) may be made available or disclosed in such an exchange in accordance with the following exceptions (and for no other purpose):

“(I) Such number (or derivative) may be disclosed in such an exchange by a State department of motor vehicles as authorized under subsection (b) of section 2721 of title 18, United States Code, if such disclosed number (or derivative) is to be used solely for the purposes permitted under paragraph (1), (6) or (9) of such subsection.

“(II) Such number (or derivative) may be made available in such an exchange to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), exclusively for use in accordance with such Act.

“(III) Such number (or derivative) may be disclosed in such an exchange to the extent that is necessary or appropriate for law enforcement or national security purposes, as determined under regulations which shall be issued by the Attorney General of the United States.

“(IV) Such an exchange may occur to the extent it is otherwise specifically authorized by this Act.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations occurring after 3 years after the date of the enactment of this Act.

### SEC. 102. PROHIBITION OF PUBLIC ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS POSSESSED BY GOVERNMENTAL AGENCIES.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by section 101) is amended further by adding at the end the following new clause:

“(xi) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof or trustee appointed in a case under title 11, United States Code (or person acting as an agent of such an agency or instrumentality or trustee), may display to the general public any individual’s social security account number, or any derivative of such number. Notwithstanding the preceding sentence, such number (or derivative) may be so displayed in accordance with the following exceptions (and for no other purpose):

“(I) Such number (or derivative) may be so displayed to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), exclusively for use in accordance with such Act.

“(II) Such number (or derivative) may be so displayed to the extent that is necessary or appropriate for law enforcement or national security purposes, as determined under regulations which shall be issued by the Attorney General of the United States.

For purposes of this clause, the term ‘display to the general public’ in connection with a social security account number, or a derivative thereof, means the intentional placing of such number or derivative in a viewable manner on an Internet site that is available to the general public or in any other manner intended to provide access to such number or derivative by the general public. Each such agency or instrumentality or trustee shall ensure that access to such numbers, and any derivative of such numbers, is restricted to persons who may obtain them in accordance with this clause and other applicable law.”.

(b) EFFECTIVE DATE.—Agencies and instrumentalities and trustees (and agents thereof) shall comply with the requirements of clause (xi) of section 205(c)(2)(C) of the Social Security Act (added by this section) as soon as practicable after the date of the enactment of this Act. Such clause (xi) shall apply with respect to all displays originally occurring after 3 years after the date of the enactment of this Act.

**SEC. 103. PROHIBITION OF DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBER ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.**

(a) **IN GENERAL.**—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

“(xii) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may include the social security account number of any individual on any check issued for any payment by the Federal Government, any State or political subdivision thereof, or any agency or instrumentality thereof or on any document attached to or accompanying such a check.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations occurring after 3 years after the date of the enactment of this Act.

**SEC. 104. PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATIONS.**

(a) **IN GENERAL.**—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(1) by inserting “(I)” after “(vi)”; and

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

“(II) A State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not disclose the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to licenses, registrations, and other documents issued or reissued after 3 years after the date of the enactment of this Act.

**SEC. 105. PROHIBITION OF DISPLAY BY GOVERNMENTAL AGENCIES OF PERSONAL IDENTIFICATION NUMBERS.**

(a) **IN GENERAL.**—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

“(xiii) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may display the social security account number, or any derivative of such number, on any card or tag that is commonly provided to employees for purposes of identification and that is to be maintained for continual, open display by the employees.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to violations occurring after 3 years after the date of the enactment of this Act.

**SEC. 106. PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.**

(a) **IN GENERAL.**—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the preceding provisions of this title) is amended further by adding at the end the following new clause:

“(xiv) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term ‘prisoner’ means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.”

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply with respect to employment of prisoners, or entry into contract with prisoners, after 1 year after the date of the enactment of this Act.

**SEC. 107. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS.**

(a) **IN GENERAL.**—Section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended by adding at the end the following new sentence: “With respect to an application for a social security account number for an individual other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application.”

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to applications filed after 1 year after the date of the enactment of this Act.

(c) **REPORT ON ENUMERATION OF ALIENS AT ADMISSION.**—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security and the Attorney General of the United States shall jointly submit a report detailing the progress of the Social Security Administration and the Immigration and Naturalization Service in implementing a process, at the admission of aliens to the United States, for enumeration of those aliens who have need of a social security account number. Such report shall be submitted to the Committee on Ways and Means and the Committee on the Judiciary of the House of Representatives and the Committee on Finance and the Committee on the Judiciary of the Senate.

**SEC. 108. REPORT BY GENERAL ACCOUNTING OFFICE ON USE BY GOVERNMENTAL AGENCIES AS PERSONAL IDENTIFICATION NUMBERS.**

(a) **STUDY.**—The Comptroller General of the United States shall undertake a study of—

(1) the current usage, by agencies and instrumentalities in all branches of the Federal Government and by executive, legislative, and judicial agencies and instrumentalities of States and political subdivisions thereof, of the social security account numbers of individuals, and derivatives of such numbers, for purposes of identification of such individuals, and

(2) the most effective means by which any such usage extending beyond the original purposes of the social security account number may be minimized.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted pursuant to this section. Such report shall contain such recommendations, including proposals for legislative changes, as the Comptroller General deems appropriate.

## **TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PRIVATE SECTOR**

**SEC. 201. REGULATION OF THE SALE AND PURCHASE OF THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PRIVATE SECTOR.**

(a) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Trade Commission.

(2) **PERSON.**—The term “person” means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

(3) **SALE.**—The term “sell” in connection with a social security account number means to obtain, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a data matching program under the Computer Matching and Privacy Protection Act and the amendments made thereby and similar computer matches involving government entities.

(4) **PURCHASE.**—The term “purchase” in connection with a social security account number means to provide, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefit or programs (such as grant or loan applications or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a data matching program under the Computer Matching and Privacy Protection Act and the amendments made thereby and similar computer matches involving government entities.

(5) **SOCIAL SECURITY ACCOUNT NUMBER.**—The term “social security account number” has the meaning given such term in section 208 of the Social Security Act (42 U.S.C. 408).

(6) **STATE.**—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

(b) PROHIBITION.—It shall be unlawful for any person to sell or purchase a social security account number in a manner that violates a regulation promulgated by the Commission under subsection (c) of this section.

(c) REGULATIONS.—

(1) RESTRICTIONS AUTHORIZED.—The Commission, after consultation with the Commissioner of Social Security, the Department of Justice, and other agencies as the Commission deems appropriate, shall promulgate regulations restricting the sale and purchase of social security account numbers and any unfair or deceptive acts or practices in connection with the sale and purchase of social security account numbers.

(2) LIMITATIONS ON RESTRICTIONS.—In promulgating such regulations, the Commission shall impose restrictions and conditions on the sale and purchase of social security account numbers that are no broader than necessary—

(A) to provide reasonable assurance that social security account numbers will not be used to commit or facilitate fraud, deception, or crime; and

(B) to prevent an undue risk of bodily, emotional, or financial harm to individuals.

For purposes of subparagraph (B), the Commission shall consider the nature, likelihood, and severity of the anticipated harm; the nature, likelihood, and extent of any benefits that could be realized from the sale or purchase of the numbers; and any other relevant factors.

(3) EXCEPTIONS.—The regulations promulgated pursuant to paragraph (1) shall include exceptions which permit the sale and purchase of social security account numbers—

(A) to the extent necessary for law enforcement or national security purposes;

(B) to the extent necessary for public health purposes;

(C) to the extent necessary in emergency situations to protect the health or safety of 1 or more individuals;

(D) to the extent necessary for research conducted for the purpose of advancing public knowledge, on the condition that the researcher provides adequate assurances that—

(i) the social security account numbers will not be used to harass, target, or publicly reveal information concerning any identifiable individuals;

(ii) information about identifiable individuals obtained from the research will not be used to make decisions that directly affect the rights, benefits, or privileges of specific individuals; and

(iii) the researcher has in place appropriate safeguards to protect the privacy and confidentiality of any information about identifiable individuals;

(E) to the extent consistent with an individual's voluntary and affirmative written consent to the sale or purchase of a social security account number that has been assigned to that individual; and

(F) under other appropriate circumstances as the Commission may determine are consistent with the findings in section 2 of this Act and the principles in paragraph (2).

(d) RULEMAKING.—

(1) DEADLINE FOR ACTION.—Not later than 1 year after the date of enactment of this Act, the Commission shall promulgate the regulations under subsection (c) of this section, in accordance with section 553 of title 5, United States Code.

(2) EFFECTIVE DATES.—Subsection (b) and the regulations promulgated under subsection (c) shall take effect 30 days after the date on which the final regulations issued under this section are published in the Federal Register.

(e) ENFORCEMENT.—Any violation of a regulation promulgated under subsection (c) of this section shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(f) ADMINISTRATION AND APPLICABILITY OF ACT.—

(1) THE COMMISSION.—The Commission shall prevent any person from violating this section, and any regulation promulgated thereunder, in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section. Any person who violates such regulation shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.) as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section. Nothing contained in this section

shall be construed to limit the authority of the Commission under any other provision of law.

(2) ACTIONS BY STATES.—

(A) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates any regulation of the Commission promulgated under subsection (c), the State, as *parens patriae*, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction, to—

- (i) enjoin that act or practice;
- (ii) enforce compliance with the regulation;
- (iii) obtain damages, restitution, or other compensation on behalf of residents of the State; or
- (iv) obtain such other legal and equitable relief as the district court may consider to be appropriate.

Before filing an action under this subsection, the attorney general of the State involved shall provide to the Commission and to the Attorney General a written notice of that action and a copy of the complaint for that action. If the State attorney general determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action, the State attorney general shall provide the written notice and the copy of the complaint to the Commission and to the Attorney General as soon after the filing of the complaint as practicable.

(B) COMMISSION AND ATTORNEY GENERAL AUTHORITY.—On receiving notice under subparagraph (A), the Commission and the Attorney General each shall have the right—

- (i) to move to stay the action, pending the final disposition of a pending Federal matter as described in subparagraph (C);
- (ii) to intervene in an action under clause (i);
- (iii) upon so intervening, to be heard on all matters arising therein; and
- (iv) to file petitions for appeal.

(C) PENDING CRIMINAL PROCEEDINGS.—If the Attorney General has instituted a criminal proceeding or the Federal Trade Commission has instituted a civil action for a violation of this Act or any regulations thereunder, no State may, during the pendency of such proceeding or action, bring an action under this section against any defendant named in the criminal proceeding or civil action for any violation of this section that is alleged in that proceeding or action.

(D) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to conduct investigations, administer oaths and affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

(E) VENUE; SERVICE OF PROCESS.—Any action brought under this section may be brought in any district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code. In an action brought under this section, process may be served in any district in which the defendant is an inhabitant or may be found.

**SEC. 202. REFUSAL TO DO BUSINESS WITHOUT RECEIPT OF SOCIAL SECURITY ACCOUNT NUMBER CONSIDERED UNFAIR OR DECEPTIVE ACT OR PRACTICE.**

Any person who refuses to do business with an individual because the individual will not consent to the receipt by such person of the social security account number of such individual shall be considered to have committed an unfair or deceptive act or practice in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Action may be taken under such section 5 against such a person.

**SEC. 203. CONFIDENTIAL TREATMENT OF CREDIT HEADER INFORMATION.**

(a) IN GENERAL.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended by inserting after the first sentence the following:

“The term also includes information regarding the social security account number of the consumer or any derivative thereof.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 90 days after the date of the enactment of this Act.



## TITLE III—ENFORCEMENT

### SEC. 301. NEW CRIMINAL PENALTIES FOR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by adding “or” at the end; and

(2) by inserting after paragraph (8) the following new paragraphs:

“(9) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number; or

“(10) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) in possession of any individual’s social security account number, or (in connection with section 205(c)(2)(C)(xi)) a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), or (xiv) of section 205(c)(2)(C);”.

(b) EFFECTIVE DATES.—Section 208(a)(9) of the Social Security Act (added by subsection (a)(2)) shall apply with respect to violations occurring after the date of the enactment of this Act. Section 208(a)(10) of such Act (added by subsection (a)(2)) shall apply with respect to violations occurring on or after the effective date applicable with respect to such violations under title I.

### SEC. 302. NEW CRIMINAL PENALTY FOR SALE OR PURCHASE OF SOCIAL SECURITY ACCOUNT NUMBERS.

(a) IN GENERAL.—Section 208(a) of the Social Security Act (as amended by section 301(a)) is amended further—

(1) in paragraph (10), by adding “or” at the end;

(2) by inserting after paragraph (10) the following new paragraph:

“(11) knowingly sells or purchases (as defined in paragraphs (2) and (3) of subsection (d)) the social security account number of any person;”;

(3) in subsection (c), by striking the last sentence;

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following new subsection:

“(d)(1) For purposes of subsection (a)(7), the term ‘social security account number’ means a number assigned by the Commissioner of Social Security under section 205(c)(2) whether or not, in actual use, such number is called a social security account number.

“(2) For purposes of subsection (a)(11), the term ‘sell’ in connection with a social security account number means to obtain, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a matching program, as defined in section 552a(a)(8)(A) of title 5, United States Code, or any other match referred to in section 552a(a)(8)(B) of such title.

“(3) For purposes of subsection (a)(11), the term ‘purchase’ in connection with a social security account number means to provide, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a matching program, as defined in section 552a(a)(8)(A) of title 5, United States Code, or any other match referred to in section 552a(a)(8)(B) of such title.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring after the date of the enactment of this Act.

### SEC. 303. EXTENSION OF CIVIL MONETARY PENALTY AUTHORITY.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking “who” in the first sentence and inserting “who—”;

(B) by striking “makes” in the first sentence and all that follows through “shall be subject to” and inserting the following:

“(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI that the person knows or should know is false or misleading,

“(B) makes such a statement or representation for such use with knowing disregard for the truth, or

“(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading, shall be subject to”;

(C) by inserting “or each receipt of such benefits or payments while withholding disclosure of such fact” after “each such statement or representation” in the first sentence;

(D) by inserting “or because of such withholding of disclosure of a material fact” after “because of such statement or representation” in the second sentence; and

(E) by inserting “or such a withholding of disclosure” after “such a statement or representation” in the second sentence.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended in the first sentence—

(A) by striking “who” and inserting “who—”; and

(B) by striking “makes” and all that follows through “shall be subject to,” and inserting the following:

“(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI that the person knows or should know is false or misleading,

“(2) makes such a statement or representation for such use with knowing disregard for the truth, or

“(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to.”.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of such Act (42 U.S.C. 1320a–8(a)) is amended further—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the last sentence of paragraph (1) as a new paragraph (2), appearing after and below paragraph (1); and

(3) by inserting after paragraph (2) (as designated under paragraph (2) of this subsection) the following:

“(3) Any person (including an organization, agency, or other entity) who—

“(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

“(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

“(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

“(D) knowingly buys or sells a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to buy or sell it;

“(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to buy or sell it;

“(F) discloses, uses, compels the disclosure of, or knowingly sells or purchases the social security account number of any person in violation of the laws of the United States;

“(G) with intent to deceive the Commissioner of Social Security as to such person’s true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

“(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

“(I) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) or (in connection with section 205(c)(2)(C)(xi)) a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), in possession of any individual’s social security account number, willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), or (xiv) of section 205(c)(2)(C);

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.”

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of such Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the case of amounts recovered arising out of a determination relating to title VIII or XVI,” and inserting “In the case of any other amounts recovered under this section.”

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of such Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking “charging fraud or false statements”.

(2) Section 1129(c)(1) of such Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking “and representations” and inserting “, representations, or actions”.

(3) Section 1129(e)(1)(A) of such Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking “statement or representation referred to in subsection (a) was made” and inserting “violation occurred”.

(e) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to violations committed after the date of the enactment of this Act, except that section 1129(a)(3)(I) of the Social Security Act (added by subsection (b)) shall apply with respect to violations occurring on or after the effective date provided in connection with such violations under title I.

#### SEC. 304. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) (as amended by section 302(a)) is further amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

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

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(b) AMENDMENTS TO TITLE VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking “(i) RESTITUTION.—In any case where” and inserting the following:

“(i) RESTITUTION.—

“(1) IN GENERAL.—In any case where”; and

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

“(2) COURT ORDER FOR RESTITUTION.—

“(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

“(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.”

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

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

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.”

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

“(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out title II, title VIII, and title XVI.

“(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

**SEC. 305. LAW ENFORCEMENT AUTHORITY FOR THE OFFICE OF THE INSPECTOR GENERAL OF THE SOCIAL SECURITY ADMINISTRATION.**

Section 702(e) of the Social Security Act (42 U.S.C. 902(e)) is amended—

(1) by inserting “(1) IN GENERAL.—” after “(e)”; and

(2) by adding at the end the following:

“(2) LAW ENFORCEMENT AUTHORITY.—

“(A) SPECIFIC DESIGNATIONS.—The Inspector General may designate one or more special agents in the Office of the Inspector General to exercise the authorities specified in subparagraph (B).

“(B) AUTHORITIES.—A special agent in the Office of the Inspector General who is designated under subparagraph (A) may—

“(i) carry firearms, while engaged in the special agent’s official duties conducted pursuant to the Inspector General Act of 1978 (5 U.S.C. App.) or any other statute, or as expressly authorized by the Attorney General of the United States,

“(ii) seek and execute warrants for arrest, search of premises, or seizure of evidence issued under the authority of the United States, upon probable cause to believe that a violation of law has been committed, and

“(iii) make an arrest without a warrant, while engaged in the special agent’s official duties conducted pursuant to the Inspector General Act of 1978 (5 U.S.C. App.) or any other statute, or as expressly authorized by the Attorney General, for—

“(I) any offense against the United States committed in the presence of the special agent, or

“(II) any felony cognizable under the laws of the United States, if the special agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

“(C) SPECIAL AGENT.—For purposes of this paragraph, the term ‘special agent’ means an employee in the Office of the Inspector General whose duties include conducting, supervising, and coordinating investigations of criminal activity in the programs and operations of the Social Security Administration.

“(D) USE OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.—

“(i) IN GENERAL.—Any State or local law enforcement officer designated by the Inspector General, while assisting a special agent designated under subparagraph (A), may exercise the authorities provided under subparagraph (B).

“(ii) APPLICABILITY OF PROVISIONS GOVERNING FEDERAL EMPLOYEES.—

“(I) IN GENERAL.—Any such officer shall not be deemed a Federal employee, and, subject to subclause (II), shall not be subject to provisions of law relating to Federal employees, solely by reason of the exercise by such officer of any such authority.

“(II) APPLICABILITY OF CERTAIN PROVISIONS.—While exercising such authority, such officer shall be subject to subsection (c) of section 3374 of title 5, United States Code, as if such officer were assigned and appointed as described in such section, except that nothing in this clause shall be construed to authorize Federal pay or other compensation for such officer.

“(E) GUIDELINES ON EXERCISE OF AUTHORITIES.—The authorities provided under subparagraph (B) shall be exercised in accordance with guidelines prescribed by the Inspector General and approved by the Attorney General of the United States. Such guidelines shall be issued within 1 year after the date of the enactment of the Social Security Number Privacy and Identity Theft Prevention Act of 2000.”.

## **TITLE IV—PROVISIONS RELATING TO REPRESENTATIVE PAYEES**

### **SEC. 401. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.**

#### **(a) OASDI AMENDMENTS.—**

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentence: “In any case in which a representative payee—

“(i) that is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of paragraph (4)(B)); or

“(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under title II, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (6)(B).”.

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

“(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this paragraph.”.

#### **(b) SVB AMENDMENTS.—**

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended by inserting after the first sentence the following new sentence: “In any case in which a representative payee—

“(A) that is not an individual; or

“(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (j)(2).”.

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

“(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such

payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this paragraph.”.

(c) SSI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentence: “In any case in which a representative payee—

“(i) that is not an individual (regardless of whether it is a ‘qualified organization’ within the meaning of subparagraph (D)(ii)); or

“(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under title II, title VIII, title XVI, or any combination of such titles; misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary’s alternative representative payee of an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (F)(ii).”.

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking “and” at the end;

(B) in paragraph (13), by striking the period and inserting “; and”; and

(C) by inserting after paragraph (13) the following new paragraph:

“(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual’s (or spouse’s) income for purposes of this title as restitution for benefits under this title, title II, or title VIII misused by the representative payee.”.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause: “(iv) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term ‘use and benefit’ for purposes of this clause.”.

(d) EFFECTIVE DATE.—The preceding amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

(e) TECHNICAL AMENDMENTS.—

(1) Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended by striking paragraph (6).

(2) Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended by striking subparagraph (G).

**SEC. 402. OVERSIGHT OF REPRESENTATIVE PAYEES.**

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) OASDI AMENDMENT.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v)—

(i) by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency”; and

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

(B) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (2)(C)(v))”.

(2) SSI AMENDMENT.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii)—

(i) by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency”; and

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

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows down through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (B)(vii)), if such agency, in accordance”;

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

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”.

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

(b) PERIODIC ONSITE REVIEW.—

(1) OASDI AMENDMENT.—Section 205(j) of such Act (as amended by section 401(a)(2)) is amended further by adding at the end the following new paragraph:

“(9) The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title VIII, or title XVI to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

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

“(B) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (2)(C)(v) or section 1631(a)(2)(B)(vii)); or

“(C) the representative payee is an agency (other than an agency described in subparagraph (B)) that serves in that capacity with respect to 50 or more such individuals.”.

(2) SVB AMENDMENT.—Section 807 of such Act (as amended by section 401(b)(2)) is amended further by adding at the end the following new subsection:

“(k) PERIODIC ONSITE INSPECTION.—The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title II, or title XVI to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

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

“(2) the representative payee is a certified community-based nonprofit social service agency (as defined in section 205(j)(2)(C)(v) or section 1631(a)(2)(B)(vii)); or

“(3) the representative payee is an agency (other than an agency described in paragraph (2)) that serves in that capacity with respect to 50 or more such individuals.”.

(3) SSI AMENDMENT.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended by adding at the end the following new subparagraph:

“(I) The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title II, or title VIII to another individual pursuant to the appointment of such person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

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

“(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in section 205(j)(2)(C)(v) or section 1631(a)(2)(B)(vii)); or

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

**SEC. 403. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE UPON CONVICTION OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR.**

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

(1) in subparagraph (B)(i)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (V); and

(C) by inserting after subclause (III) the following new subclause:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year, and”;

(2) in subparagraph (C)(i)(II), by striking “subparagraph (B)(i)(IV),” and inserting “subparagraph (B)(i)(V)” and striking “section 1631(a)(2)(B)(ii)(IV)” and inserting “section 1631(a)(2)(B)(ii)(V)”;

(3) in subparagraph (C)(i), by adding after and below subclause (III) the following new sentence:

“Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction.”.

(b) SVB AMENDMENT.—Section 807(b) of such Act (42 U.S.C. 1007(b)) is amended—

(1) in paragraph (2)—

(A) by striking “and” at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following new subparagraph:

“(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year; and”;

(2) in subsection (d)(1), by adding after and below subparagraph (C) the following new sentence:

“Benefits of an individual may not be paid to any other person pursuant to this subsection if such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction.”.

(c) SSI AMENDMENT.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking “and” at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (V); and

(C) by inserting after subclause (III) the following new subclause:

“(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year; and”;

(2) in clause (iii), by adding after and below subclause (III) the following new sentence:

“Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if such person has previously been convicted as described in clause (ii)(IV), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction.”.

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

(e) TECHNICAL AMENDMENTS.—Section 1631(a)(2)(B)(iii)(II) of the Social Security Act (42 U.S.C. 1383(a)(2)(B)(iii)(II)) is amended—

(1) by striking “clause (ii)(IV)” and inserting “clause (ii)(V)”;

(2) by striking “section 205(j)(2)(B)(i)(IV)” and inserting “section 205(j)(2)(B)(i)(V)”.



**SEC. 404. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.**

(a) OASDI AMENDMENT.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) by inserting before the second sentence the following new sentence: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6).”

(b) SSI AMENDMENT.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking “A” and inserting “Except as provided in the next sentence, a”; and

(2) by inserting before the second sentence the following new sentence: “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner makes the determination of misuse after December 31, 1999.

**SEC. 405. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.**

(a) OASDI AMENDMENT.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by section 401(e)(1)) is amended further by inserting after paragraph (5) the following new paragraph:

“(6)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or the individual’s alternative representative payee.

“(B) The total of the amount certified for payment to such individual or the individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(b) SVB AMENDMENT.—Section 807 of such Act (as amended by section 402(b)(2)) is amended further by adding at the end the following new subsection:

“(1) LIABILITY FOR MISUSED AMOUNTS.—

“(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or the individual’s alternative representative payee.

“(2) LIMITATION.—The total of the amount paid to such individual or the individual’s alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”

(c) SSI AMENDMENT.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 401(e)(2)) is amended by inserting after subparagraph (F) the following new subparagraph:

“(G)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this paragraph, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to clause (ii), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or the individual’s alternative representative payee.

“(ii) The total of the amount paid to such individual or the individual’s alternative representative payee under clause (i) of this subparagraph and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner makes the determination of misuse after December 31, 1999.

**SEC. 406. EXTENSION OF CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO REPRESENTATIVE PAYEES.**

(a) **IN GENERAL.**—Section 1129(a) of the Social Security Act (as amended by section 303(b)) is amended further—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such conversion, of not more than twice the amount of any payments so converted.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

**SEC. 407. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.**

(a) **OASDI AMENDMENT.**—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following new subparagraph:

“(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides.”.

(b) **SVB AMENDMENT.**—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) **AUTHORITY TO RESTRICT COLLECTION OF PAYMENTS BY PERSONS FAILING TO REPORT.**—In any case in which the person described in paragraph (1) or (2) receiving payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the qualified individual, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the qualified individual resides.”.

(c) **SSI AMENDMENT.**—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

“(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing

notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides.”

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

## TITLE V—MISCELLANEOUS AND TECHNICAL AMENDMENTS

### SEC. 501. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

- (1) by striking “Secretary” the first place it appears and inserting “Commissioner of Social Security”; and
- (2) by striking “Secretary” each subsequent place it appears and inserting “Commissioner”.

### SEC. 502. TECHNICAL CORRECTION RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking “described in subsection (g)(5)” and inserting “on a farm operated for profit”.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking “described in section 210(f)(5)” and inserting “on a farm operated for profit”.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking “or is domestic service in a private home of the employer”.

### SEC. 503. 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 (42 U.S.C. 402(n)) is amended—

- (1) by striking “deportation” each place it appears and inserting “removal”;
- (2) by striking “deported” each place it appears and inserting “removed”;
- (3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking “under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “under section 237(a) (other than paragraph (1)(C) or (1)(E) thereof) or 212(a)(6)(A)”;
- (4) in paragraph (2), by striking “under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)” and inserting “under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) or (1)(E) thereof) or under section 212(a)(6)(A) of such Act”;
- (5) in paragraph (3)—
  - (A) by striking “paragraph (19) of section 241(a)” and inserting “subparagraph (D) of section 237(a)(4)”;
  - (B) by striking “paragraph (19)” and inserting “subparagraph (D)”;
- (6) in the heading, by striking “Deportation” and inserting “Removal”.

(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking “section 162(m)” and inserting “section 162(l)”.

(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking “and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis”.

### SEC. 504. TECHNICAL CORRECTION RELATING TO 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 semicolon at the end.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

**SEC. 505. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.**

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

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

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

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

“(ii) complies with standards prescribed by the Commissioner of Social Security respecting 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, title VIII, or title XVI; or

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

(2) in the heading, by striking “PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE” and inserting “PROHIBITIONS RELATING TO REFERENCES”.

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

**SEC. 506. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.**

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 42 U.S.C. 434 note) is amended to read as follows:

“(f) EXPENDITURES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), expenditures made for the 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.

“(2) ADMINISTRATIVE EXPENDITURES.—Administrative expenditures for the demonstration projects under this section incurred by the Commissioner of Social Security shall be made from funds available pursuant to section 201(g) of the Social Security Act, to the extent or in the amounts provided in advance in appropriation Acts.”.

**SEC. 507. OPTIONAL FEDERAL ADMINISTRATION OF STATE RECOGNITION PAYMENTS.**

(a) IN GENERAL.—Title VIII of the Social Security Act is amended by inserting after section 810 (42 U.S.C. 1010) the following new section:

**“SEC. 810A. OPTIONAL FEDERAL ADMINISTRATION OF STATE RECOGNITION PAYMENTS.**

“(a) IN GENERAL.—The Commissioner of Social Security may enter into an agreement with any State (or political subdivision thereof) that provides cash payments on a regular basis to individuals entitled to benefits under this title under which the Commissioner shall make such payments on behalf of such State (or political subdivision).

“(b) AGREEMENT TERMS.—

“(1) IN GENERAL.—Such agreement shall include such terms as the Commissioner finds necessary to achieve efficient and effective administration of both this title and the State program which provides the cash payments referred to in subsection (a).

“(2) FINANCIAL TERMS.—Such agreement shall provide for the State to pay the Commissioner, at such times and in such installments as the parties may specify—

“(A) an amount equal to the expenditures made by the Commissioner pursuant to such agreement as payments to individuals on behalf of such State; and

“(B) an administrative fee equal to the administrative expenses incurred by the Commissioner in making such payments.

“(c) SPECIAL DISPOSITION OF ADMINISTRATIVE FEES.—Administrative fees, upon collection, shall be credited to a special fund established in the Treasury of the United States for State recognition payments for certain World War II veterans. The

amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents for title VIII of the Social Security Act is amended by inserting after the item relating to section 810 the following new item:

“Sec. 810A. Optional Federal administration of State recognition payments.”.

(2) Section 1129A(e) of the Social Security Act (42 U.S.C. 1320a–8a(e)) is amended by inserting “810A or” after “agreement under section”.

**SEC. 508. 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 (42 U.S.C. 429(a)(2)) is amended by inserting “and before 2002” after “after 1977”.

(2) TERMINATION OF ANNUAL FUNDING AUTHORITY.—Section 229(b) of such Act (42 U.S.C. 429(b)) 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 (42 U.S.C. 429(b)) 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 calendar 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 (42 U.S.C. 429) 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 has died or is 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 the date of death or 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(l)(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 the rate of basic pay for a 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 \$1,200 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)) and which 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 as are 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, that 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.”

## I. INTRODUCTION

### A. PURPOSE AND SUMMARY

#### *Purpose*

The purpose of H.R. 4857, as amended (the “Social Security Number Privacy and Identity Theft Prevention Act of 2000”) is to protect the privacy of the Social Security Account Number (SSN), to combat SSN fraud and misuse (including identity theft), and to strengthen protections for beneficiaries whose benefits are managed by representative payees.

#### *Summary*

*Provisions Relating to the Social Security Account Number in the Public Sector.*—The bill would limit the sale and public display of SSNs by Federal, State and local governments. In addition, the bill would prohibit the SSN from appearing on government checks issued for payment, employee identification cards or tags, and State Department of Motor Vehicle identification documents, including drivers’ licenses and motor vehicle registrations.

*Provisions Relating to the Social Security Account Number in the Private Sector.*—The bill would restrict the sale and purchase of SSNs and would prohibit businesses from denying services to individuals who refuse to disclose their SSNs. In addition, the bill would amend the definition of “consumer report” in the Fair Credit Reporting Act to include the SSN as part of the information protected under the Act.

*Enforcement.*—The bill would provide new civil and criminal penalties for violations of the law and would provide enhanced law enforcement authority for the Social Security Administration Office of Inspector General (SSA/OIG).

*Provisions Relating to Representative Payees.*—The bill would impose more stringent requirements on certain individuals and organizations who apply to be representative payees. It would also establish civil and criminal penalties for representative payees who abuse their duties by misusing the funds of Social Security and Supplemental Security Income (SSI) beneficiaries, and would require the Commissioner of Social Security to reimburse certain beneficiaries whose funds have been misused.

*Miscellaneous and Technical Amendments.*—The bill includes miscellaneous and technical amendments to the Social Security Act

and Internal Revenue Code. The bill would also eliminate deemed military wage credits for certain active duty military service, allowing the funds to be applied to other military compensation packages.

#### B. BACKGROUND AND NEED FOR LEGISLATION

The SSN was created in 1935 for the sole purpose of tracking workers' earnings so that Social Security benefits could be calculated upon retirement or disability. Over 290 million people have SSNs today.

Because a unique SSN is assigned to each individual, the number is commonly used as a personal identifier, although it was never intended for this purpose. Consequently, use of the SSN has increased dramatically since its creation.

Expanded Federal use of the SSN was first mandated by President Roosevelt in 1943 with Executive Order 9397. This Executive Order required that any Federal department establishing a new system of permanent account numbers pertaining to an individual must utilize the SSN exclusively, and that such personal information must be kept confidential. Today the SSN is required by Federal law for the administration of a number of government programs, such as Food Stamps, Medicaid, and Temporary Assistance for Needy Families, among many others.

The SSN is also widely used in the public and private sectors for purposes that are neither required nor prohibited by law. As a result, the SSN is generally regarded as the single-most widely used record identifier by both government and private sectors within the United States.

The prevalence of SSN use and the ease by which individuals can obtain another person's SSN have raised serious concerns over privacy and opportunities for fraud. For instance, in the public sector, SSN cards may be counterfeited for illegal aliens, and false SSN information may be provided to obtain federal benefits illegally. In the private sector, SSN misuse is a central component of identity theft, which is considered the fastest growing financial crime in the country, affecting approximately 500,000 to 700,000 people annually. In fiscal year 1999, SSA/OIG received 62,000 allegations of SSN misuse and the average number of monthly allegations has been increasing.

SSN misuse imposes significant costs for the government, the private sector, and individuals who are victims of identity theft. For example, reported monetary losses associated with identity theft rose from \$442 million in 1995 to \$745 million in 1997—a 169 percent increase in two years.

Growing concerns over fraud and privacy and the absence of a comprehensive Federal law regulating the use of SSNs have prompted a need to better protect SSNs in the law. Titles I, II and III of H.R. 4857 address this need.

Title IV of H.R. 4857 is needed to protect approximately 6.5 million Social Security and SSI beneficiaries who have representative payees manage their monthly benefits. Qualified organizations, known as "fee-for-service" organizations, may charge a fee for their services, which is collected from the beneficiary's payments. Since Fiscal Year 1998, SSA/OIG has opened over 1,350 representative payee investigations, which have led to over 300 convictions and

identified over \$7,500,000 in fraud losses. This misuse by representative payees of their clients' benefits has created a need to improve protections for beneficiaries.

### C. LEGISLATIVE HISTORY

On September 28, 2000, the Committee on Ways and Means ordered favorably reported to the House of Representatives H.R. 4857, the "Social Security Number Privacy and Identity Theft Prevention Act of 2000," as amended, by voice vote, with a quorum present.

On July 20, 2000, the Subcommittee on Social Security ordered favorably reported to the full Committee H.R. 4857, the "Privacy and Identity Protection Act of 2000," as amended, by a voice vote, with a quorum present.

The Subcommittee held hearings on May 9 and 11 and July 17, 2000, and received testimony on the use and misuse of the SSN. The hearings included testimony from the Administration, the U.S. General Accounting Office, identity theft victims, privacy advocates, and representatives from State governments and the private sector.

## II. EXPLANATION OF THE BILL

### A. SHORT TITLE AND FINDINGS

#### 1. SHORT TITLE (SEC. 1 OF THE BILL)

The short title of the bill is the "Social Security Number Privacy and Identity Theft Prevention Act of 2000".

#### 2. FINDINGS (SEC. 2 OF THE BILL)

Congress finds that SSN misuse gives rise to many illegal activities. The sale and purchase of SSNs often facilitates such activities by making SSNs easily accessible to the general public. Because the Federal government requires individuals to maintain SSNs for a variety of purposes, the Federal government should take steps to stem the abuse of SSNs. Congress finds that legislation should be enacted to restrict the sale and purchase of SSNs in circumstances that might facilitate unlawful conduct or result in unfair or deceptive practices.

### B. PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER IN THE PUBLIC SECTOR

#### 1. RESTRICTIONS ON THE SALE AND DISPLAY OF SOCIAL SECURITY ACCOUNT NUMBERS BY GOVERNMENTAL AGENCIES (SECS. 101–106 OF THE BILL AND SEC. 205 OF THE SOCIAL SECURITY ACT)

##### *Present law*

Generally Federal, State and local governments that collect SSNs for the administration of government programs and government-funded activities are often permitted to display and/or sell the numbers to third parties and to the general public. Government agencies may also purchase SSNs from third parties.



*Explanation of provision*

Section 101 of the bill would prohibit Federal, State, and local government agencies (or third-party administrators) from selling SSNs or SSN derivatives. Exceptions are made for disclosures: (1) authorized by certain provisions of the Driver's Privacy Protection Act of 1994, (2) authorized by the Fair Credit Reporting Act, (3) made for law enforcement or national security purposes in accordance with regulations issued by the Attorney General of the United States, and (4) authorized by the Social Security Act.

Section 102 of the bill would prohibit Federal, State, and local government agencies (or third-party administrators) from publicly displaying SSNs or SSN derivatives on Internet sites or on other material which is intended to be accessed by the general public. Exceptions are made for disclosures: (1) authorized by the Fair Credit Reporting Act and (2) made for law enforcement or national security purposes in accordance with regulations issued by the Attorney General of the United States.

Section 103 of the bill would prohibit Federal, State, and local government agencies (or third-party administrators) from displaying SSNs on checks issued for payments or on any documents attached to or accompanying the check. The bill does not prohibit the appearance of SSN derivatives on checks.

Section 104 of the bill would prohibit the display of SSNs or SSN derivatives on drivers' licenses, motor vehicle registrations, or other identification documents issued by State Departments of Motor Vehicles.

Section 105 of the bill would prohibit Federal, State, and local government agencies (or third-party administrators) from displaying SSNs or SSN derivatives on employee identification cards or military tags. The provision applies to identification cards which are continually and openly displayed by the individual.

Section 106 of the bill would prohibit Federal, State, and local government agencies (or third-party administrators) from employing prisoners in any capacity which provides them with access to SSNs.

*Reasons for change*

SSNs are widely available and easily accessible to the public. For example, SSNs are displayed on many government documents, such as marriage licenses, tax liens, bankruptcy files, and personal property records. All of these documents are available in the public domain, and many are available on the Internet. In addition, the SSN is often displayed on employee identification cards, checks, drivers' licenses and other documents which are not available to the general public, but are easily accessible by other individuals. Moreover, some government agencies sell the SSN to third parties who can subsequently sell or display the information to others.

The wide availability of SSNs has raised serious concerns over privacy. Testimony before the Subcommittee on Social Security highlights the relative ease by which an individual can obtain another person's SSN and use the information to engage in SSN-related crimes, such as identity theft. Restricting the display and sale of SSNs will help to curb fraudulent activity by making it more difficult for criminals to access this personal information.

Exceptions from some provisions of the bill are made for legitimate disclosures which benefit the public. For example, disclosure of the SSN is authorized by the Social Security Act for the administration of several programs, such as SSI, Medicare, Medicaid, Temporary Assistance for Needy Families, child support enforcement, unemployment insurance, and tax reporting. These uses help ensure the effective administration of programs under the Social Security Act. The bill would not preclude the Commissioner of Social Security from being reimbursed for the expense of data matches pursuant to such authorized programs. Disclosures in accordance with these uses will continue to be permissible. Limited exceptions are also made for certain commercial disclosures. In such cases, the SSN is used for legitimate purposes that benefit the public, and the information may not be subsequently sold or displayed to the general public.

*Effective date*

Sections 101 through 105 are effective for sales and displays occurring after 3 years after enactment. Section 106 is effective for prisoners hired after 1 year after enactment.

2. INDEPENDENT VERIFICATION OF BIRTH RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR SOCIAL SECURITY ACCOUNT NUMBERS (SEC. 107 OF THE BILL AND SEC. 205 OF THE SOCIAL SECURITY ACT)

*Present law*

Title II of the Social Security Act requires SSA to establish the age, citizenship, alien status, and true identity of individuals applying for SSNs. Such verification is required only to the extent that the Commissioner of Social Security determines necessary. In addition, SSA must establish whether the applicant was previously assigned a SSN. Verification of documents provided in support of SSN applications is not required under present law.

*Explanation of provision*

The provision would provide that the Commissioner of Social Security shall require independent verification of birth records provided in support of SSN applications, except for purposes of enumeration at birth.

The provision also would require the Commissioner of Social Security and the Attorney General of the United States to jointly submit a report to Congress detailing the progress of SSA and the Immigration and Naturalization Service in implementing a process for enumeration of aliens at admission who have a need for SSNs.

*Reason for change*

SSA is not required to verify the birth certificates presented by SSN applicants. Requiring such verification will make it more difficult for individuals to obtain fraudulent SSNs and to use such SSNs to commit crimes.

*Effective date*

The provision applies to applications filed after 1 year after the date of enactment. The report must be submitted not later than 1 year after the date of enactment.

3. REPORT BY GENERAL ACCOUNTING OFFICE ON USE BY GOVERNMENTAL AGENCIES AS PERSONAL IDENTIFICATION NUMBERS (SEC. 108 OF THE BILL)

*Present law*

The SSN is required, by law, for the administration of several programs and Federally funded activities. For example, Federal law requires or permits the use of the SSN for Federal income tax purposes, the Temporary Assistance for Needy Families program, applications for drivers' licenses or motor vehicle registrations, Medicaid eligibility, loan applications, child support enforcement, and boxing licenses. In addition, the SSN is used by government agencies for many other purposes that are neither required nor prohibited by law.

The Privacy Act of 1974 applies to personal information maintained in a system of records by agencies in the executive branch of the Federal Government. It provides safeguards against an invasion of privacy through the misuse of records by agencies and provides that no Federal, State or local government agency may withhold a benefit from a person simply because the individual refuses to furnish his or her SSN (unless the disclosure is required by Federal statute or the disclosure was required by statute or regulation for a system of records, if both were adopted prior to January 1, 1975). It also requires that when Federal, State and local agencies request the individual's SSN, they must inform the individual if disclosure is mandatory or voluntary.

*Explanation of provision*

The provision would require the Comptroller General of the United States to conduct a comprehensive study regarding the use of SSNs and SSN derivatives as personal identifiers by all levels and branches of Federal, State and local governments. The study shall include recommendations regarding the most effective means of minimizing such use beyond its original purpose.

*Reason for change*

The use of the SSN has expanded far beyond its original purpose and far beyond purposes authorized by statute. The prevalent use of the SSN as a personal identifier makes the number a key component of many financial crimes, such as identity theft. Limiting the prevalent use of SSNs as a personal identifier would, therefore, reduce the opportunities for such crimes.

The committee intends that this study shall include an assessment of the current uses that may result or have resulted in fraud; identification of effective privacy protection practices; review of the cost factors associated with transitioning to new systems of identification; review of the use of SSNs by third-party administrators providing services for public and private agencies; review of liability issues relative to the misuse of SSNs; a summary as to how SSNs are displayed in public view; and, a comparison of public and private sector utilization of SSNs for identification purposes. The study shall also include recommendations regarding the most effective means of minimizing such use beyond its original purpose.

*Effective date*

The report is due not later than 1 year after enactment.

C. PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT  
NUMBER IN THE PRIVATE SECTOR

1. REGULATION OF THE SALE AND PURCHASE OF THE SOCIAL SECURITY  
ACCOUNT NUMBER IN THE PRIVATE SECTOR (SEC. 201 OF THE BILL)<sup>1</sup>

*Present law*

The Fair Credit Reporting Act (FCRA) (15 U.S.C. §1681 et seq.), administered by the Federal Trade Commission (FTC), codifies the rules regarding how credit information is gathered, disclosed, and used. The FCRA is intended to protect the privacy and to promote the accuracy of information contained in credit reports. Under the law, credit reports may be disclosed and used only for certain legitimate purposes, which are outlined in the Act. However, personal identifying information found at the top of the credit report (which includes the SSN) is not considered part of the credit report and, therefore, is exempt from FCRA regulations.

The Gramm-Leach-Bliley Act (P.L. 106–102) prohibits financial institutions' from disclosing nonpublic personal information about consumers to non-affiliated third parties, unless the institution satisfies various disclosure and opt-out requirements.

*Explanation of provision*

The provision would require the FTC to promulgate regulations restricting the sale or purchase of SSNs in the private sector. The definitions of “sale” and “purchase” would not include submitting the number to apply for government benefits, or transferring the number as part of a computer matching program defined in the law. Exceptions would be made for several purposes, including law enforcement, national security, public health, and in those circumstances where the individual has voluntarily provided written consent. Violations would be enforced criminally by the Department of Justice or civilly under the Federal Trade Commission Act regarding unfair or deceptive acts or practices. In addition, the attorney general of a State may bring a civil action on behalf of its residents under the FTC regulations.

*Reason for change*

The SSN is used in the private sector to facilitate a wide variety of legitimate business transactions. For example, private-sector SSN use helps improve access to financial and credit services, reduces administrative costs, and improves record-keeping so consumers can be identified and contacted accurately. However, the pervasive sale and purchase of SSNs in the private sector facilitates SSN fraud by making SSNs easily accessible to the general public. In addition, Americans are increasingly concerned that the SSNs, which they disclose for one purpose, are subsequently sold to third parties and used for other purposes without their knowledge or consent. Consequently, the law should restrict the sale and purchase of SSNs in the private sector in order to protect privacy

<sup>1</sup> Jurisdiction of the Committee on Commerce

and stem abuse. However, such restrictions should focus to the greatest extent possible on ensuring that the SSN will not be used to commit or facilitate fraud, deception, or crime and on preventing undue risk of bodily, emotional, or financial harm to individuals, without interfering with legitimate uses of the SSN.

*Effective date*

Regulations are due one year after the date of enactment and take effect 30 days after final issuance.

2. REFUSAL TO DO BUSINESS WITHOUT RECEIPT OF SOCIAL SECURITY ACCOUNT NUMBER CONSIDERED UNFAIR OR DECEPTIVE ACT OR PRACTICE (SEC. 202 OF THE BILL)<sup>2</sup>

*Present law*

No provision.

*Explanation of provision*

The provision would provide that the denial of service to an individual who refuses to provide his or her SSN will be considered an unfair or deceptive act or practice under the Federal Trade Commission Act.

*Reason for change*

According to the General Accounting Office (Social Security: Government and Commercial Use of the Social Security Number is Widespread, Report #HEHS-99-28), there is no law prohibiting the denial of services or goods by the private sector if an individual declines to provide his or her SSN, even if there appears to be no rational basis for requiring the SSN. Individuals are warned that they should not carry their SSN cards, yet businesses routinely request the number in order to complete transactions. Because of the considerable potential for SSN misuse and the consequences of such misuse, individuals should not be required to disclose their SSN to conduct routine business transactions. However, it is not the intent of the provision to prohibit businesses from requesting the SSN for purposes specifically required by law.

*Effective date*

Date of enactment.

3. CONFIDENTIAL TREATMENT OF CREDIT HEADER INFORMATION (SEC. 203 OF THE BILL AND SEC. 603 OF THE FAIR CREDIT REPORTING ACT)<sup>3</sup>

*Present law*

In general, consumer reports contain two kinds of information. The “credit header,” which is listed at the top of the consumer report contains identifying information, such as the individual’s, name, address, date of birth, marital status, mother’s maiden name, and SSN among other things. The “credit report” lists the individual’s credit information and the timeliness of payments. Credit reports may also contain public record information, such as tax liens, court judgements and bankruptcies.

<sup>2</sup> Jurisdiction of the Committee on Commerce

<sup>3</sup> Jurisdiction of the Committee on Banking and Financial Services.

The FCRA regulates the disclosure and use of an individual's credit report. This information may be disclosed only for certain legitimate purposes, which are outlined in the FCRA. According to FTC rulings, the definition of "credit report" contained in the FCRA does not include credit header information. As a result, this identifying information is exempt from FCRA regulations.

*Explanation of provision*

The provision would amend the definition of "consumer report" under the FCRA to include the SSN, thus subjecting the SSN to FCRA regulations.

*Reason for change*

Credit header information contains an individual's SSN and other unique identifying information. This information does not receive the same privacy protections as the rest of the credit report. Consequently, organizations who collect this personal information may make it available to the public or sell it without an individual's knowledge or consent. The information may subsequently be used for inappropriate purposes. The SSN should receive the same protections as other information in the credit report which is regulated by the FCRA. The provision is not intended to expand the scope of the FCRA's definition of consumer reporting agency relative to current law.

*Effective date*

90 days after the date of enactment.

#### D. ENFORCEMENT

1. CRIMINAL AND CIVIL MONETARY PENALTIES AND ORDERS OF RESTITUTION (SECS. 301–304 OF THE BILL AND SECS. 208, 1129, 1129A, 807, AND 1632 OF THE SOCIAL SECURITY ACT)

*Present law*

The Social Security Act provides criminal penalties for: (1) providing false information to obtain a SSN, (2) providing false information to obtain benefits, (3) using a SSN obtained through false information, (4) falsely represents a SSN to be theirs with intent to deceive, (5) altering a SSN card, (6) counterfeiting a SSN card, (7) buying or selling a SSN card, (8) possessing a SSN card with intent to sell or alter it, and (9) disclosing, using, or compelling the disclosure of the SSN of any person in violation of any Federal law. Present law does not permit trial judges to order restitution if an individual is convicted of a violation.

The Social Security Act also authorizes SSA to impose civil monetary penalties for any person who makes a false statement of a material fact, or omits a material fact while providing a statement, for use in determining eligibility for, or the amount of, Social Security or Supplemental Security Income (SSI) benefits.

*Explanation of provision*

Sections 301 and 302 of the bill would provide for criminal penalties of up to five years in prison and fines of up to \$250,000 for the: (1) offer to acquire, for a fee, an additional SSN for an individual, (2) violation of sections 101 through 106 of Title I of this

legislation by an officer, employee, or agent of any Federal, State or local government agency, and (3) sale or purchase of SSNs as those terms are defined in sections 208(d)(2) and (3) of the Social Security Act.

Section 303 of the bill would authorize SSA to impose civil monetary penalties, in addition to any other penalties that apply, of up to \$5,000 for each of the following violations: (1) omission of a statement that the individual should have made to SSA in connection with determining eligibility for, or the amount of benefits; (2) using a SSN obtained through false information; (3) falsely represents a SSN to be theirs; (4) alters a Social Security card; (5) buying or selling a SSN card; (6) counterfeiting a Social Security card; (7) disclosure, use, sale, or purchase of another person's SSN in violation of any Federal law; (8) offer to acquire, for a fee, an additional SSN for an individual; and (9) violation of sections 101 through 106 of this Act by improper sale of SSNs by an officer, employee, or agent of a Federal, State or local government agency.

Section 304 of the bill would allow trial judges to order restitution for violations of the Social Security Act. Amounts recovered will be credited to special account in the Treasury and will be available to defray expenses associated with carrying out Titles II, VIII, and XVI of the Social Security Act.

*Reason for change*

SSN misuse can result in considerable costs for the government, the private sector, and individuals who are victims of fraud. In many cases, the costs of SSN misuse extend beyond monetary losses. Because of the gravity of SSN misuse, it is appropriate to provide criminal and civil monetary penalties for violations of the law relating to SSN misuse.

Providing trial judges with the ability to impose restitution will enhance trial judges' ability to further penalize offenders and further provide the opportunity for the Social Security programs to be compensated for losses resulting from SSN misuse.

*Effective date*

Sections 301 through 304 are effective for violations occurring after enactment, except that penalties for violations in connection with Sections 101 through 106 of Title I of this Act shall apply with respect to violations occurring on or after the applicable effective date of each section.

2. LAW ENFORCEMENT AUTHORITY FOR THE OFFICE OF THE INSPECTOR GENERAL OF THE SOCIAL SECURITY ADMINISTRATION (SEC. 305 OF THE BILL AND SEC. 702 OF THE SOCIAL SECURITY ACT)

*Present law*

Since September 1995, SSA/OIG Special Agents have been designated as Special Deputy United States Marshals pursuant to a Memorandum of Understanding with the Department of Justice (DoJ). Under the Memorandum of Understanding, the designated Special Agents have law enforcement authority.

*Explanation of provision*

This provision would codify the current Memorandum of Understanding between DoJ and SSA/OIG, subject to guidelines approved by the Attorney General of the United States. The provision also allows the Inspector General to cross-designate State and local law enforcement officers to assist SSA/OIG Special Agents in investigations as needed.

*Reason for change*

Designation as Special Deputy United States Marshals allows SSA/OIG to properly investigate allegations of criminal violations of the programs and operations of SSA. On July 19, 2000, DoJ testified before the United States Senate Committee on Governmental Affairs that effective January 31, 2001, this renewable deputation would no longer be provided due to a lack of resources for the United States Marshals Service.

In addition, designation of State and local law enforcement officers to assist SSA/OIG Special Agents in investigating criminal allegations of fraud, is particularly important due to the unique Federal/State relationship in administering the Social Security disability program. Such designation would assist SSA/OIG to better coordinate investigative efforts with State law enforcement.

*Effective date*

Effective upon the approval of the guidelines by the Attorney General, which shall be issued within 1 year after the date of enactment.

## E. PROVISIONS RELATING TO REPRESENTATIVE PAYEES

1. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES (SEC. 401 OF THE BILL AND SECS. 205, 807, 1613, AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

The Social Security Act requires the re-issuance of benefits in cases of misuse by an individual or organizational representative payee when there has been a finding by the Commissioner of Social Security of negligent failure by the Commissioner to investigate or monitor the payee.

*Explanation of provision*

The provision would require the Commissioner of Social Security to re-issue benefits under Titles II, VIII, or XVI whenever an individual representative payee serving 15 or more beneficiaries, or an organizational representative payee, is found to have misused a beneficiary's funds.

The provision defines misuse as any case in which a representative payee converts the benefits entrusted to his or her care for purposes other than the "use and benefit" of the beneficiary and requires the Commissioner to define "use and benefit" in regulation. However, the Committee does not intend for the definition of misuse to include a conversion of benefits that is not exclusively for the "use and benefit" of the beneficiary. For instance, the Committee does not envision misuse to include cases in which a rep-



representative payee uses the benefits entrusted to his or her care to help pay the rent on an apartment that he or she and the beneficiary share.

*Reason for change*

Within recent years there have been a number of highly-publicized cases involving organizational representative payees that have misused large sums of monies paid to them on behalf of the Social Security and SSI beneficiaries they represent. In most instances, these organizations operated as criminal enterprises bent not only on stealing funds from beneficiaries, but also on carefully concealing the evidence of their wrongdoing. These illegal activities went undetected until large sums had been stolen. As a result, the affected beneficiaries may never be repaid, or may be repaid only when the representative payee who committed the misuse makes restitution to SSA.

Requiring SSA to reissue benefit payments to the victims of such misuse protects beneficiaries served by organizational representative payees. These beneficiaries are among the most vulnerable because they have no family members or friends who are willing or able to protect their interests by managing their benefits.

With respect to individual representative payees, the provision applies only to representative payees serving 15 or more beneficiaries. Limiting the provision in this manner is justified because the aggregate amount that can be misused in cases involving representative payees serving many beneficiaries is much greater.

Moreover, extending the provision to cases involving individual representative payees serving fewer beneficiaries may lead to fraudulent claims of misuse. These claims, which often turn on information available only from close family members, would be difficult to disprove. Similarly, extension of this provision to these cases could potentially encourage misuse or poor money management by these individual representative payees if they believed that the beneficiary could eventually be paid a second time by SSA.

*Effective date*

The provision is effective for misuses occurring on or after January 1, 1995, as determined by the Commissioner.

2. OVERSIGHT OF REPRESENTATIVE PAYEES (SEC. 402 OF BILL AND SECS. 205, 807 AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

Present law requires nongovernmental fee-for-service organizational representative payees to be licensed or bonded. However, there is no provision requiring the yearly submission of proof of licensing or bonding or the submission of independent audits. In addition, there is no provision requiring periodic onsite reviews of organizational representative payees (other than the accountability monitoring done for State institutions that serve as representative payees).

*Explanation of provision*

The provision would require nongovernmental fee-for-service organizational representative payees to be both licensed and bonded,

provided that licensing is available in the State. In addition, representative payees must submit yearly proof of bonding and licensing, as well as any available independent audit.

The Commissioner of Social Security would be required to conduct periodic onsite reviews of certain representative payees: (1) a person who serves as a representative payee to 15 or more beneficiaries, (2) nongovernmental fee-for-service representative payees (as defined in titles II and XVI) or, (3) any other agency that serves as the representative payee to 50 or more beneficiaries.

*Reason for change*

Strengthening the requirements for representative payees would add further safeguards to protect beneficiaries' funds. State licensing provides for some oversight by the State into the fee-for-service organization's business practices, and bonding provides some assurances that a surety company has investigated the organization and approved it for the level of risk associated with the bond for all community based non-profit social service agencies serving as representative payees.

On-site periodic visits should be conducted regularly, and to the degree possible, appropriate auditing and accounting standards be utilized in conducting such reviews.

*Effective date*

Effective the first day of the 13th month after enactment, except that the periodic review requirement would be effective upon enactment.

3. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE UPON CONVICTION OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR (SEC. 403 OF THE BILL AND SECS. 205, 807 AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

Individuals are disqualified from service as representative payees upon conviction of criminal violations under the Social Security Act.

*Explanation of provision*

The provision would disqualify an individual from serving as a representative payee if he or she has been convicted of an offense resulting in more than one year of imprisonment, unless the Commissioner of Social Security determines that such certification would be appropriate notwithstanding such conviction.

*Reason for change*

Present law does not disqualify individuals from serving as representative payees if they have been convicted of criminal offenses outside of the Social Security Act. The Committee believes that allowing convicted persons to serve as representative payees, especially those convicted of criminal fraud offenses, increases the likelihood of mismanagement or abuse of beneficiaries' funds.

*Effective date*

Effective the first day of the 13th month beginning after the date of enactment.

4. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES (SEC. 404 OF BILL AND SECS. 205 AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

Certain organizational representative payees are authorized to collect a fee for their services. This fee is deducted from their clients' benefit payments.

*Explanation of provision*

The provision would require representative payees to forfeit their fee from the beneficiary's benefits for the months during which the representative payee misused the funds, as determined by the Commissioner of Social Security or a court of competent jurisdiction.

*Reason for change*

Representative payees who misuse their clients' funds are not required to forfeit the fees they collect. The Committee believes that payees who misuse their clients' funds are not properly performing the service for which the fee was paid. As a result, the payee should be required to forfeit these fees. Permitting the organization to retain the fees is tantamount to rewarding the payee for violating his or her responsibility to use the benefits for an individual's needs.

*Effective date*

Applies to any month involving benefit misuse by a representative payee where the Commissioner of Social Security makes the determination of misuse after December 31, 1999.

5. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS (SEC. 405 OF THE BILL AND SECS. 205, 807 AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

No provision.

*Explanation of provision*

This provision would provide that misused benefits by a non-governmental representative payee shall be treated as overpayments to the representative payee, subject to current overpayment recovery authorities. Any recovered benefits not reissued to the beneficiary pursuant to section 401 of this legislation would be reissued under this provision to the beneficiary or their alternate representative payee, up to the total amount misused.

*Reason for change*

Although SSA has been provided with expanded authority to recover overpayments (such as tax refund offsets, referral to contract collection agencies, notifying credit bureaus, and administrative off-

sets of future federal benefit/payments), these tools cannot be used to recoup benefits misused by a representative payee. Treating misused benefits as overpayments to the representative payee would provide SSA with additional means for recovering the misused payments. The change would enhance protections for all beneficiaries with payees, not just those with organizational payees.

*Effective date*

Applies to benefit misuse by a representative payee in any case where the Commissioner of Social Security makes the determination of misuse after December 31, 1999.

6. EXTENSION OF CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO REPRESENTATIVE PAYEES (SEC. 406 OF THE BILL AND SEC. 1129 OF THE SOCIAL SECURITY ACT)

*Present law*

The Social Security Act authorizes SSA to impose civil monetary penalties for any person who makes a false statement of a material fact, or omits a material fact while providing a statement to SSA, for use in determining Social Security or SSI benefits, or to affect the amount of such benefits.

*Explanation of provision*

This provision would authorize SSA to impose a civil monetary penalty for offenses involving misuse of Social Security, Title VIII, or SSI benefits received by a representative payee on behalf of another individual. The penalty equals up to \$5,000 for each violation. In addition, the representative payee shall be subject to an assessment in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of the misused payments.

*Reason for change*

Representative payees who misuse beneficiaries' funds are subject to criminal penalties under current law. Providing civil monetary penalties (in addition to SSA's present authority permitting recovery of misused funds) would provide SSA with an additional means of addressing misuse by representative payees.

*Effective date*

Applies to violations occurring after the date of enactment.

7. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING (SEC. 407 OF THE BILL AND SECS. 205, 807 AND 1631 OF THE SOCIAL SECURITY ACT)

*Present law*

The Social Security Act requires representative payees to submit an accounting report to the Commissioner of Social Security detailing how benefit payments received on a client's behalf were used. The report is required at least annually, but may be requested by the Commissioner at any time if the Commissioner has reason to believe the representative payee is misusing benefits.

*Explanation of provision*

The provision would provide SSA with the authority to redirect payments of Social Security, Title VIII, and SSI benefits to local Social Security field offices if a representative payee fails to provide an annual accounting of benefits report. The Commissioner would be required to provide proper notice and the opportunity for a hearing prior to redirecting benefits.

*Reason for change*

Accounting reports are an important means of monitoring the activities of representative payees and establishing accountability. Failure to submit these reports to the Commissioner makes it more difficult for the Commissioner to detect fraud and misuse. As a result, steps should be taken to protect beneficiaries when representative payees fail to submit their reports in a timely manner. Redirecting benefit payments to the field office, and notifying the payee of the possibility, would provide an effective tool for increasing the number of payees who return the annual accounting form.

*Effective date*

180 days after enactment.

## F. MISCELLANEOUS AND TECHNICAL AMENDMENTS

1. TECHNICAL CORRECTION RESPECTING RESPONSIBLE AGENCY HEAD  
(SEC. 501 OF THE BILL AND SEC. 1143 OF THE SOCIAL SECURITY ACT)*Present law*

Section 1143 of the Social Security Act requires the Secretary of Health and Human Services to provide individuals with periodic Social Security statements.

*Explanation of provision*

The provision would delete all references to the “Secretary of Health and Human Services” found in Section 1143 of the Social Security Act and replaces them with the “Commissioner of Social Security”.

*Reason for change*

When the Congress enacted the Social Security Independence and Program Improvements Act of 1994, it established the Social Security Administration as an independent agency within the Executive Branch of the Federal Government. All duties relating to the administration of Social Security and SSI benefits were transferred from the Secretary of Health and Human Services to the Commissioner of Social Security. This transfer of duties was not incorporated into Section 1143 of the Social Security Act. This provision remedies the oversight.

*Effective date*

Date of enactment.

2. TECHNICAL CORRECTION RESPECTING DOMESTIC EMPLOYMENT (SEC. 502 OF THE BILL AND SECS. 3121 OF THE INTERNAL REVENUE CODE OF 1986 AND SEC. 209 OF THE SOCIAL SECURITY ACT)

*Present law*

Present law is ambiguous concerning the tax treatment of domestic service performed on a farm. Domestic employment on a farm appears to be subject to two separate coverage thresholds (one for agricultural labor and another for domestic employees).

*Explanation of provision*

This provision would remove references to domestic employment from the definition of agricultural employment. The definition of domestic employment will specify that domestic employment includes domestic service performed on a farm.

*Reason for change*

Prior to 1994, domestic service on a farm was treated as agricultural labor and was subject to the coverage threshold for agricultural labor. In 1994, when Congress amended the law with respect to domestic employment, the intent was that domestic employment on a farm would be subject to the coverage threshold for domestic employees instead of agricultural labor. However, the language is unclear and it appears that farm domestics are subject to both thresholds.

*Effective date*

Date of enactment.

3. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES (SEC. 503 OF THE BILL AND SECS. 202 AND 211 OF THE SOCIAL SECURITY ACT AND 3102 OF THE INTERNAL REVENUE CODE OF 1986)

*Present law*

No provision.

*Explanation of provision*

This provision would conform references in the law. For example, section 3102(a) of the Internal Revenue Code (pertaining to the deduction of the Social Security taxes from a worker's wages) still refers to a 20-day work test for Social Security coverage of agricultural labor. However, the 20-day work test was deleted from the Social Security Act in 1987.

*Reason for change*

Over the years, provisions in the Social Security Act, the Internal Revenue Code and other related laws have been deleted, re-designated or amended. However, necessary conforming changes have not always been made. Consequently, Social Security law contains some outdated references.

*Effective date*

Date of enactment.

4. TECHNICAL CORRECTIONS RELATING TO RETIREMENT BENEFITS OF MINISTERS (SEC. 504 OF THE BILL AND SEC. 211 OF THE SOCIAL SECURITY ACT)

*Present law*

Certain retirement benefits received by ministers and members of religious orders (such as the rental value of a parsonage or parsonage allowance) are not subject to Social Security payroll taxes under the Internal Revenue Code. However, they are treated as net earnings from self-employment under the Social Security Act for the purpose of acquiring insured status and calculating Social Security benefits.

*Explanation of provision*

This provision would amend the Social Security Act to exclude for Social Security benefit purposes certain benefits (including the rental value of a parsonage or parsonage allowance) received by retired ministers or members of religious orders.

*Reason for change*

Some types of income are not subject to Social Security payroll taxes, but they are used to earn insured status under Social Security and to compute benefits under the Social Security program. Thus, the income is not treated in a uniform manner. The provision is needed to conform the Social Security Act to the Internal Revenue Code with respect to such income.

*Effective date*

Effective for years beginning before, on, or after December 31, 1994.

5. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION (SEC. 505 OF THE BILL AND SEC. 1140 OF THE SOCIAL SECURITY ACT)

*Present law*

Section 1140 of the Social Security Act prohibits or restricts various activities involving the use of SSA symbols, emblems, or references. It also provides for the imposition of civil monetary penalties with respect to violations of the Section.

*Explanation of provision*

The provision 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.

*Reason for change*

Several individuals or companies offer Social Security services for a fee even though the same services are available directly from SSA free of charge. Oftentimes, customers are not informed that

the service may be obtained for free from SSA. These practices mislead and deceive senior citizens, newlyweds, new parents, and other individuals seeking services from SSA. The provision is needed to protect these consumers.

*Effective date*

Applies to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates regulations prescribing notice standards.

6. FUNDING FOR DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS (SEC. 506 OF THE BILL AND SEC. 302 OF THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999)

*Present law*

The Ticket to Work and Work Incentives Improvement Act requires SSA to conduct a demonstration project regarding the effects of gradually reducing Social Security Disability Insurance benefits by \$1 for every \$2 in earnings over a level determined by the Commissioner. The law is ambiguous regarding appropriations for the demonstration project.

*Explanation of provision*

The provision would clarify that the administrative costs associated with the demonstration projects will be appropriated annually, to the extent or in the amounts provided in advance in appropriation Acts. The cost of paying increased benefits will not be appropriated.

*Reason for change*

The demonstration projects required under present law will increase administrative costs for SSA and will also increase benefit payments to disabled beneficiaries taking part in the projects. The law is unclear regarding the appropriation of funds to cover these increased costs.

*Effective date*

Date of enactment.

7. OPTIONAL FEDERAL ADMINISTRATION OF STATE RECOGNITION PAYMENTS (SEC. 507 OF THE BILL AND TITLE VIII OF THE SOCIAL SECURITY ACT)

*Present law*

Title VIII of the Social Security Act provides for Federal payments to certain World War II U.S. veterans, including Filipino veterans, who were eligible for SSI in December 1999 and who now reside outside of the United States.

*Explanation of provision*

The provision would provide the Commissioner of Social Security with the authority to enter into an agreement with a State to make State Recognition payments to qualified individuals eligible for Title VIII benefits on the State's behalf.



*Reason for change*

Title XVI of the Social Security Act provides for State supplementary payments to individuals under the SSI program. These payments are funded by the States. However, SSA may enter into an agreement with a State to make these supplementary payments on the State's behalf. Title VIII of the Social Security Act provides for Federal payments to certain qualified veterans and at least one State has established a program to provide State recognition payments to Filipino veterans eligible for Title VIII. The Commissioner does not have the authority to administer these payments on a State's behalf. The provision provides the Commissioner with this authority under Title VIII comparable to the Title XVI authority.

*Effective date*

Date of enactment.

8. MILITARY WAGE CREDITS (SEC. 508 OF THE BILL AND SEC. 229 OF THE SOCIAL SECURITY ACT)

*Present law*

Active duty military service members currently receive deemed military wages credits of \$100 for every \$300 of earnings subject to a maximum credit of \$1,200 annually. Credits are not granted if earnings are at or above the maximum taxable wage base (\$76,200 in 2000). These credits are used to determine the individual's insured status and benefit payments. The Department of Defense (DoD) is required to reimburse to the Social Security trust funds an amount equal to the combined employer and employee share of the payroll tax contribution on the amount of deemed wage credits that are given.

*Explanation of provision*

The provision would eliminate 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.

*Reason for change*

The DoD is currently developing proposals to reconfigure the total benefits package now available to military service personnel. The provision would eliminate military wage credits for certain active duty military service members, allowing DoD to reapply funds to other essential military pay and retirement initiatives with minimal impact on the service member's future Social Security benefit. The provision would protect those service members who still need the benefit protection provided by deemed military wage credits.

*Effective date*

Effective for deemed military wage credits that would be credited to a worker's earnings record for 2002 or later.

### III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 4857.

#### MOTION TO REPORT THE BILL

The bill, H.R. 4857, as amended, was ordered favorably reported by a voice vote (with a quorum being present).

### IV. BUDGET EFFECTS OF THE BILL

#### A. COMMITTEE ESTIMATES ON BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 4857, as reported. The Committee agrees with the estimate provided by CBO which is below.

#### B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

##### *Budget authority*

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new increased budget authority. The bill increases off-budget direct spending from Social Security Trust Funds, however, the Social Security Administration's Office of the Chief Actuary has determined that such spending will have a negligible effect on the long-range Social Security actuarial balance. The bill has no effect on revenues.

#### C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office ("CBO"), the following statement by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 6, 2000.*

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. 4857, the Social Security Number Privacy and Identity Theft Prevention Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Sheila Dacey and Kathy Ruffing.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 4857—Social Security Number Privacy and Identity Theft Prevention Act of 2000*

Summary: H.R. 4857 would address the increasing use of the Social Security number (SSN) for personal identification by limiting the sale, purchase, display, and uses of the number. It would tighten procedures for obtaining an SSN and impose or stiffen criminal and civil penalties for misuse. H.R. 4857 would also strengthen the supervision of representative payees (people who receive benefit checks belonging to others, such as children or mentally-impaired adults) and make several, mostly technical, amendments to the Social Security Act. In addition, the bill would eliminate the payment of Social Security and Medicare Hospital Insurance (HI) benefits related to non-cash compensation earned by members of the armed forces, and the associated annual payment from the Department of Defense (DoD) to the Social Security and Medicare trust funds.

CBO estimates that enacting H.R. 4857 would increase direct spending by \$2 million in 2001 and by negligible amounts thereafter. It would also lead to slight increases in receipts from penalties. Because H.R. 4857 would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 4857 would also affect discretionary spending. DoD would save up to \$400 million annually that it now pays to the Social Security and Hospital Insurance trust funds. In addition, the bill would cause the Social Security Administration (SSA) and the Federal Trade Commission (FTC) to incur a total of about \$30 million a year in additional enforcement costs.

H.R. 4857 contains a number of intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the sale, display, and use of Social Security numbers by state or local governments. CBO estimates that the aggregate costs of those mandates would exceed the threshold established in UMRA (\$55 million in 2000), adjusted annually for inflation) in at least one of the next five years.

The bill contains several private-sector mandates on businesses that now use Social Security numbers. CBO estimates that the costs of complying those mandates would significantly exceed the threshold for private-sector mandates specified in UMRA (\$109 million in 2000, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 4857 is shown in Table 1. This legislation affects multiple budget functions—chiefly 050 (national defense), 600 (income security), 650 (Social Security), and 950 (undistributed off-setting receipts).

Basis of estimate: CBO assumes that H.R. 4857 will be enacted in October 2000, and that the authorized amounts will be appropriated at the beginning of each fiscal year.

*Direct spending and revenues*

Titles I, II, and III. The first two titles address the uses of the SSN in the public sector (federal, state, and local governments) and private sectors, respectively; the third deals with enforcement. Several provisions could affect the federal budget. Requiring birth records from all applicants for SSNs—as is already automatic in

the hospital-based Enumeration at Birth program—and granting more law enforcement powers to the Inspector General of SSA, for example, might curtail fraudulent payments of benefits. Allowing SSA to impose civil monetary penalties and collect court-ordered restitution in cases of SSN fraud or misuse could boost governmental receipts. Similarly, allowing the Federal Trade Commission (FTC) to impose civil monetary penalties when businesses violate the new law would also raise receipts. Based on information from SSA and FTC staffs, CBO estimates that such budgetary effects would be negligible in the 2001–2010 period.

Title IV. The fourth title would tighten SSA’s oversight of representative payees. About 5 million recipients of Social Security benefits (2 million adults and 3 million children) and 2 million recipients of Supplemental Security Income (SSI) benefits (1 million adults and 1 million children) collect these payments through representative payees. Typically, a family member serves as a representative payee. But especially for adult recipients, the payee may be a social service agency, an institution, or a similar organization. SSA monitors representative payees by requiring annual accounting reports and by conducting on-site reviews every three years of certain representative payees who serve a large number of beneficiaries. Title IV would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. It would enhance SSA’s ability to recover misused funds and to impose civil monetary penalties.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 4857

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
<b>CHANGES IN DIRECT SPENDING OUTLAYS</b>					
Title IV. Provisions Relating to Representative Payees					
OASDI benefits (off-budget) .....	1	(1)	(1)	(1)	(1)
SSI benefits (on-budget) .....	1	(1)	(1)	(1)	(1)
Other Titles .....	(1)	(1)	(1)	(1)	(1)
<b>Total, direct spending .....</b>	<b>2</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>	<b>(1)</b>
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Title I. Provisions Relating to the Social Security Account Number in the Public Sector					
Verify birth records (OASDI, off-budget):					
Estimated authorization level .....	0	18	19	19	20
Estimated outlays .....	0	16	17	19	19
Title II. Provisions Relating to the Social Security Account Number in the Private Sector					
FTC enforcement:					
Estimated authorization level .....	3	3	3	3	3
Estimated outlays .....	3	3	3	3	3
Title IV. Provisions Relating to Representative Payees					
OASDI (off-budget):					
Estimated authorization level .....	0	7	7	8	8
Estimated outlays .....	0	7	7	8	8
SSI (on-budget):					
Estimated authorization level .....	0	3	3	3	3
Estimated outlays .....	0	3	3	3	3
Title V. Miscellaneous and Technical Amendments					
Department of Defense:					
Estimated authorization level .....	0	–397	–353	–357	–360
Estimated outlays .....	0	–397	–353	–357	–360

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 4857—Continued

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
Total:					
Estimated authorization level .....	0	-366	-321	-325	-326
Estimated outlays .....	0	-368	-323	-325	-327
	CHANGES IN REVENUES				
Estimated Revenues .....	(1)	(1)	(1)	(1)	(1)
	Memorandum:				
Effect on outlays for offsetting receipts from eliminating intragovernmental payments by DoD:					
OASDI (off-budget) .....	0	321	285	289	291
HI (on-budget) .....	0	76	68	68	69

<sup>1</sup> Less than \$500,000.

Note.—OASDI=Old-Age, Survivors, and Disability Insurance; SSI=Supplemental Security Income; HI=Hospital Insurance; FTC=Federal Trade Commission; DoD=Department of Defense

Most provisions of Title IV would have negligible effects on benefit payments or recoveries. Section 401, however, would direct SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee, even if there had been no negligence on SSA's part. (Currently, such claimants must show negligence by SSA.) Representative payees misuse about \$3 million in benefits each year. Only about 10 percent of payees are organizations that would be affected by this provision, so CBO assumes that it would cost about \$300,000 a year. Because the provision would be retroactive to January 1, 1995, CBO estimates that it would cost \$2 million in 2001 and \$5 million over the 2001–2010 period.

Title V. The fifth title chiefly contains technical clarifications or minor changes to the Social Security Act. One of those provisions would have a small budgetary effect.

Members of the armed services receive cash pay plus other compensation such as housing, food, and uniform allowances. Under current law, they may get credit for an extra \$1,200 of earnings each year toward the calculation of their eventual Social Security benefits to reflect that noncash pay. Each year, DoD pays about \$300 million to the Old-Age, Survivors, and Disability Insurance trust funds and about \$75 million to the Hospital Insurance (Medicare Part A) trust fund to pay for those extra credits. H.R. 4857 would eliminate both the DoD payment and the resulting benefits except in very isolated cases of early death or disability. CBO estimates that the savings in benefit payments over the 2002–2010 period would be negligible.

#### *Spending subject to appropriation*

Based on information from SSA, CBO judges that H.R. 4857 would cost the agency about \$30 million a year in administrative costs. Verifying birth records of roughly 1.7 million people each year who apply for an SSN outside of the Enumeration at Birth program would require an estimated 250 workyears each year and cost \$16 million to \$19 million annually. More rigorous oversight of representative payees, chiefly from conducting on-site inspections of a broader range of payees, would add about 130 workyears and cost \$10 million to \$11 million annually.

H.R. 4857 would define any document containing a Social Security number as a consumer report. Consumer reports are regulated

by the Federal Trade Commission under the Fair Credit Reporting Act. Based on information from the FTC, CBO expects that the agency would have to hire new personnel in order to regulate the handling of documents containing Social Security numbers. CBO estimates that these new staff would cost about \$3 million per year.

DoD pays \$350 million to \$400 million a year to the Social Security and Hospital Insurance trust funds to reflect the taxes due on the value of noncash allowances. As discussed above, H.R. 4857 would end that practice in most cases. These are intragovernmental payments, however, so their elimination would have no net effect on the budget. If future appropriations were cut commensurately, discretionary spending would be lower by \$1.5 billion over the 2002–2005 period. But receipts to the trust funds would decline commensurately, as shown in the memorandum item in Table 1. Because that change in offsetting receipts would depend on future appropriation action, it is not considered a direct spending effect.

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 the following table. (Spending for OASDI is not counted.) For purposes of enforcing pay-as-you-go procedures only the effects in the budget year and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays .....	1	0	0	0	0	0	0	0	0	0
Changes in receipts .....	0	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: H.R. 4857 contains a number of intergovernmental mandates as defined in the Unfunded Mandates Reform Act. Specifically, the bill would restrict or prohibit governmental agencies from:

- Selling Social Security numbers;
- Otherwise allowing access to SSNs by the public;
- Displaying SSNs on checks or check stubs, and;
- Using SSNs on driver’s licenses or identification cards.

The extent to which state and local governments still use SSNs in their data and bookkeeping systems is unclear. In addition, the cost of altering such systems varies widely. Based on information from state and local governments and various interest groups representing them, however, CBO believes that the aggregate costs of those mandates would probably exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation) in at least one year over the next five years.

Many state and local governments have reduced the use of SSNs in recent years, particularly on driver’s licenses, and the sale of such numbers to non-governmental entities. However, several other uses of SSNs by governments would violate the prohibitions in the bill.

Most costly would be the prohibition against displaying SSNs on checks and check stubs and otherwise restricting public access to

those numbers. Some states have already enacted laws protecting access to SSNs, and few alterations would have to be made in those states. Many other state and local governments, however, currently use SSNs to identify individuals for purposes such as property tax liens, court documents, income tax payment and refund data, motor vehicle registrations, and employee benefit records. For example, the state of Illinois includes SSNs on check stubs for income tax refunds, and the state of Pennsylvania includes SSNs on unemployment and state retirement system checks. The state of New York uses SSNs as the default for sales tax identification numbers. In those and similar cases, the SSNs would have to be removed or alternative systems developed. Some governments also have laws allowing general access to public documents. By requiring governments either to implement new record-keeping systems (most likely involving computer reprogramming) or to audit documents made available to the public in order to avoid disclosing SSNs, H.R. 4857 would impose costs that are likely, in the aggregate, to be significant.

The bill would allow a three-year window for affected governments to alter their systems, and this delay would tend to lower costs and spread them over time. However, because of the large number of state and local governments (well over 80,000) in the United States, even inexpensive changes to individual systems would quickly add up to aggregate costs exceeding the threshold in UMRA. For example, even if only half of all governments were required to reprogram or audit documents, and each spent as little as \$5,000 on altering their systems or procedures over a three-year period, total costs would exceed \$55 million annually at some point over the next few years.

Estimated impact on the private sector: H.R. 4857 would impose new private-sector mandates on persons who buy or sell personally identifiable information (sections 201 and 203), on firms that require customers to provide them with their Social Security number (section 202), and on representative payees that accept Social Security checks on behalf of beneficiaries (section 402). CBO has been unable to obtain sufficient data to estimate the aggregate direct cost of these mandates. However, we have sufficient information to conclude that the cost would significantly exceed the statutory threshold specified in UMRA (\$109 million in 2000, adjusted annually for inflation).

The Social Security number is the de factor unique and constant individual identifier that is used in the United States today. Most other identifiers either are not unique, such as a name, or can change, such as names or addresses. For example,

- 42 million people move each year;
- 3 million people change their last name each year;
- 6 million people have second homes and may use either address; and
- Ten of millions of people own businesses or use a business address in connection with their credit.

As a result, the most accurate method of combining information on individuals from different sources is to match the sources on the SSN. Also, the most reliable current method of accessing information about an individual from a database is to use the SSN.

In the long term, if use of the SSN were severely restricted, governments and commercial firms might develop another method of uniquely identifying individuals. However, such an effort would be costly and would take years to complete. Furthermore, current problems with identify theft and loss of privacy would transfer to the replacement identifier. In the short term, if use of the SSN were severely restricted, accessing information from large databases, such as those maintained by credit bureaus, would become more difficult and providers of information would undoubtedly have to increase the price for their services. In the short and medium term, the cost to information providers of maintaining and expanding their databases would rise. Consequently, the quality of these information sources would fall and there would be further pressure for providers to increase the prices for their services. The cost of most mandates in this bill is related to the added difficulty of accessing information in these databases without using an SSN, or to maintaining and expanding these databases without using an SSN.

Section 201 of the bill would make it unlawful for any person to sell or purchase an SSN in a manner that would put the information at risk of being used to commit fraud, deception, or crime, or put the individual at some risk of bodily, emotional, or financial harm. The Federal Trade Commission would be required to develop regulations that would govern these purchases and sales. A few activities, such as law enforcement, would be exempt from the regulations. Firms that disclose SSNs—for example, those that sell personally identifiable information over the Internet—would find some of their activities prohibited by FTC regulations.

Section 202 of the bill would make it an unfair trade practice for firms to refuse to do business with an individual if that individual did not provide their SSN. A person may now be asked to provide his or her SSN for such diverse activities as taking out an insurance policy, checking into a hospital, applying for store charge account, joining a club, or taking a college admissions test. This provision could make it much more difficult for a firm to obtain, for example, a credit history on a customer who is applying for credit but who declines to provide an SSN. It would also make it much more difficult to provide information that can be readily matched to other information. For example, college admissions testing organizations normally ask for the SSN so that their score reports to colleges can be easily matched to the other information in a student's admission file.

While CBO does not know how many people would not provide their SSN if the bill were enacted, the number of current transactions that require the SSN as a unique identifier is extremely large. Credit bureaus use the person's SSN as the unique identifier in their databases. In fact, they currently maintain credit files on 180 million adults, issue 900 million credit reports each year, and track roughly two billion transactions per month using the SSN as the identifier. Thus, while we do not have sufficient information to estimate the cost of this mandate, it could be very large.

Section 203 would strengthen the provisions of the Fair Credit Reporting Act (FCRA) by giving the SSN the same status as credit history information, thereby significantly restricting the permissible uses of SSN. From the perspective of the FCRA, the informa-



tion about a consumer in the databases credit bureaus maintain can be divided into the credit header and the consumer report, which includes credit history. The credit header contains key identifying information, including the SSN, while the consumer report contains the information bearing on a consumer's credit worthiness, including income and payment histories. It is unlawful to disclose information in the consumer report unless it is for one of the listed permissible purposes specified in the law.

This provision would make it unlawful, for example, for a private detective to supply a person's SSN to an information broker in order to get information on that person's addresses. It would also be unlawful to sell data that include the SSN to information brokers such as those in the IRSG or to direct marketers. If such firms are not able to buy information that can be economically combined using an identifier such as the SSN, then the value of the remaining information they have would fall and the cost of maintaining it at a particular level of quality would rise.

A permissible purpose of a consumer report is one that is in accordance with the written instructions of the consumer, so a college admissions testing organization, for example, would have to obtain the written consent of test-takers to be able to provide the test-taker's SSN to colleges and universities along with their scores. Nevertheless, any attempt to get information about a consumer from an information broker by providing the consumer's SSN would become unlawful because disclosing the SSN would constitute a consumer report and the purpose—getting locating information—would not be a permissible one. The exception would be those cases in which the consumer provides written consent to the requestor.

This provision would have a particularly strong impact on private investigators, law firms, collection agencies, or any user of locating services because the requestor would not have the consumer's written consent to provide the SSN to the information broker. Providing other identifying information to the broker instead of the SSN would lead to higher charges for the services. Furthermore, the information the search returned would be less useful because it would sometimes be diluted with information on other consumers with the same identifying information or would not be based on records with the correct information.

One other mandate in the bill would be created by section 402. This provision would stiffen restrictions on nongovernmental, organizational representative payees. These organizations would be required to both obtain a license from the state they are located in and be bonded. This would impose a mandate on representative payees who under current law need only do one or the other. This provision would have a minimal aggregate cost on these organizations, however.

Estimate prepared by: Federal Costs: Sheila Dacey (Titles I–IV); Kathy Ruffing (Title V); and Ken Johnson (Federal Trade Commission). Revenues: Edward Harris and Erin Whitaker. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Nabeel Alsalam.

Estimate approved by: Robert A Sunshine, Assistant Director for Budget Analysis.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### **A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that it was a result of the Subcommittee on Social Security's oversight review of the use and misuse of Social Security numbers and the misuse of Social Security and SSI benefits by organizational representative payees that the Committee concluded that it is appropriate and timely to enact the provisions included in the bill as reported.

### **B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM**

In compliance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform with respect to the provisions contained in this bill.

### **C. CONSTITUTIONAL AUTHORITY STATEMENT**

With respect to clause 3(d)(1) of rule XIII 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 \* \* \*").

### **D. INFORMATION RELATING TO UNFUNDED MANDATES**

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Public Law 104-4).

The Committee has determined that the following provisions of the bill contain Federal mandates on the private sector: (1) restricting the sale and purchase of SSNs in the private sector, (2) making it an unfair or deceptive trade practice for businesses to deny services to an individual who declines to provide his or her SSN, (3) giving the SSN contained in a consumer report the same status as the credit information contained in the report, thereby restricting permissible uses of the SSN, and (4) requiring nongovernmental organizational representative payees to be both bonded and licensed (if the State provides licensing.)

The Committee has been unable to obtain sufficient data to estimate the direct cost of these mandates. However, the Committee has determined that the mandates would exceed the statutory threshold specified in UMRA. The benefits of these provisions include protecting SSN privacy and reducing SSN misuse, including identity theft. Restricting the sale and purchase of SSNs and strengthening protections for SSNs contained in consumer reports (items #1 and #3 above) would protect SSN privacy by restricting unauthorized access to this information and reducing the potential for fraudulent activities. Making it an unfair or deceptive trade

practice deny services to individuals who refuse to provide their SSNs (item #2 above) would further protect SSN privacy by discouraging businesses from requesting the SSN unless the information is legitimately needed to carry out the business transaction. Requiring representative payees to be licensed and bonded (item #4 above) strengthens protections for Social Security and SSI beneficiaries who rely on representative payees to manage their benefits and reduces the risk that representative payees will misuse beneficiaries' funds.

Separately, the Committee has determined that the following provisions of the bill contain Federal mandates on the public sector by prohibiting Federal, State and local government agencies from: (1) selling SSNs (with certain exceptions) (2) displaying SSNs to the general public (with certain exceptions), (3) displaying SSNs on checks or check stubs, and (4) displaying SSNs on drivers' licenses or identification cards.

The Committee has not determined the direct costs of these provisions. However, based on information from State and local governments and various interest groups representing them, the aggregate cost of all of these mandates would probably exceed the threshold established under UMRA in at least one year over the next five years. Under present law, SSNs are widely available and easily accessible to the public. These provisions would restrict the sale and public display of SSNs, making it more difficult for criminals to access this personal information and subsequently use it to facilitate fraudulent activities, such as identity theft. Consequently, these provisions would protect privacy, help prevent SSN crimes and reduce the public and private costs associated with such crimes.

The legislation does not authorize federal funding for these direct costs because the extent to which State and local governments still use SSNs in their data and bookkeeping systems is unclear. Moreover, the cost of altering such systems (if needed) varies widely. Thus, the Committee does not have sufficient data to determine the costs associated with these mandates or how federal funding should be allocated among the various government agencies. The legislation allows a three-year window to phase in necessary changes, thereby lowering costs and spreading them over time. Finally, the costs to individual government units is likely to be small. However, because of the large number of State and local governments (well over 800,000) in the United States, inexpensive changes to individual systems add up to aggregate costs which exceed the UMRA threshold.

The provisions of the bill affect activities engaged in by both the private and public sectors. Therefore, they do not affect the competitive balance between state, local or tribal governments and the private sector.

## **VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) 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 italics, 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

\* \* \* \* \*

AGE AND SURVIVORS INSURANCE BENEFIT PAYMENTS

Old Age Insurance Benefits

SEC. 202. (a) \* \* \*

\* \* \* \* \*

Termination of Benefits Upon **【Deportation】** *Removal* of Primary  
Beneficiary

(n)(1) If any individual is (after the date of enactment of this subsection) **【deported under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)】** *removed under section 237(a) (other than paragraph (1)(C) or (1)(E) thereof) or 212(a)(6)(A) of the Immigration and Nationality Act*, then, notwithstanding any other provisions of this title—

(A) no monthly benefit under this section or section 223 shall be paid to such individual, on the basis of his wages and self employment income, for any month occurring (i) after the month in which the Commissioner of Social Security is notified by the Attorney General that such individual has been so **【deported】** *removed*, and (ii) before the month in which such individual is thereafter lawfully admitted to the United States for permanent residence,

\* \* \* \* \*

(2) As soon as practicable after the **【deportation】** *removal* of any individual **【under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)】** *under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) or (1)(E) thereof) or under section 212(a)(6)(A) of such Act*, the Attorney General shall notify the Commissioner of Social Security of such **【deportation】** *removal*.

(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of **【deportation】** *removal* has been issued under **【paragraph (19) of section 241(a)】** *subparagraph (D) of section 237(a)(4)* of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been **【deported】** *removed* under such **【paragraph (19)】** *subparagraph (D)* as of the date on which such order became final.

\* \* \* \* \*

EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

SEC. 205. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

(2)(A) \* \* \*

(B)(i) \* \* \*

(ii) The Commissioner of Social Security shall require of applicants for social security account numbers such evidence as may be necessary to establish the age, citizenship, or alien status, and true identity of such applicants, and to determine which (if any) social security account number has previously been assigned to such individual. With respect to an application for a social security account number for an individual who has not attained the age of 18 before such application, such evidence shall include the information described in subparagraph (C)(ii). *With respect to an application for a social security account number for an individual other than for purposes of enumeration at birth, the Commissioner shall require independent verification of any birth record provided by the applicant in support of the application.*

\* \* \* \* \*

(C)(i) \* \* \*

\* \* \* \* \*

(vi)(I) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency administering a program funded under part A of title IV or an agency operating pursuant to the provisions of part D of such title.

*(II) A State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not disclose the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on any driver's license or motor vehicle registration or any other document issued by such State or political subdivision to an individual for purposes of identification of such individual.*

\* \* \* \* \*

(x) *No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof (or person acting as an agent of such an agency or instrumentality) in possession of any individual's social security account number may accept an item of material value in exchange for such number, or any derivative thereof. Notwithstanding the preceding sentence, such number (or derivative) may be made available or disclosed in such an exchange in accordance with the following exceptions (and for no other purpose):*

(I) Such number (or derivative) may be disclosed in such an exchange by a State department of motor vehicles as authorized under subsection (b) of section 2721 of title 18, United States Code, if such disclosed number (or derivative) is to be used solely for the purposes permitted under paragraph (1), (6) or (9) of such subsection.

(II) Such number (or derivative) may be made available in such an exchange to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), exclusively for use in accordance with such Act.

(III) Such number (or derivative) may be disclosed in such an exchange to the extent that is necessary or appropriate for law enforcement or national security purposes, as determined under regulations which shall be issued by the Attorney General of the United States.

(IV) Such an exchange may occur to the extent it is otherwise specifically authorized by this Act.

(xi) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof or trustee appointed in a case under title 11, United States Code (or person acting as an agent of such an agency or instrumentality or trustee), may display to the general public any individual's social security account number, or any derivative of such number. Notwithstanding the preceding sentence, such number (or derivative) may be so displayed in accordance with the following exceptions (and for no other purpose):

(I) Such number (or derivative) may be so displayed to a consumer reporting agency, as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), exclusively for use in accordance with such Act.

(II) Such number (or derivative) may be so displayed to the extent that is necessary or appropriate for law enforcement or national security purposes, as determined under regulations which shall be issued by the Attorney General of the United States.

For purposes of this clause, the term "display to the general public" in connection with a social security account number, or a derivative thereof, means the intentional placing of such number or derivative in a viewable manner on an Internet site that is available to the general public or in any other manner intended to provide access to such number or derivative by the general public. Each such agency or instrumentality or trustee shall ensure that access to such numbers, and any derivative of such numbers, is restricted to persons who may obtain them in accordance with this clause and other applicable law.

(xii) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or a political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may include the social security account number of any individual on any check issued for any payment by the Federal Government, any State or political subdivision thereof, or any agency or instrumentality thereof or on any document attached to or accompanying such a check.

(xiii) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivi-

sion thereof (or person acting as an agent of such an agency or instrumentality) may display the social security account number, or any derivative of such number, on any card or tag that is commonly provided to employees for purposes of identification and that is to be maintained for continual, open display by the employees.

(xiv) No executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or person acting as an agent of such an agency or instrumentality) may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term “prisoner” means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual’s conviction of a criminal offense.

\* \* \* \* \*

Representative Payees

(j)(1) \* \* \*

(2)(A) \* \* \*

(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Commissioner of Social Security shall—

(I) \* \* \*

\* \* \* \* \*

(III) determine whether such person has been convicted of a violation of section 208, 811, or 1632, **[and]**

(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year, and

**[(IV)]** (V) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection, the designation of such person as a representative payee has been revoked pursuant to section 807(a), or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title VIII, or title XVI.

\* \* \* \* \*

(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

(I) \* \* \*

(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in **[subparagraph (B)(i)(IV),]** *subparagraph (B)(i)(V)*, the designation of such person as a representative payee has been revoked pursuant to section 807(a), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in **[section 1631(a)(2)(B)(ii)(IV)]** *section 1631(a)(2)(B)(ii)(V)*, or

(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

*Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if such person has pre-*

*viously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction.*

\* \* \* \* \*

(v) In the case of an individual described in paragraph (1)(B), when selecting such individual's representative payee, preference shall be given to—

(I) **[a community-based nonprofit social service agency licensed or bonded by the State]** *a certified community-based nonprofit social service agency,*

(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

(III) a State or local government agency with fiduciary responsibilities, or

(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Commissioner of Social Security deems it appropriate,

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

\* \* \* \* \*

(3)(A) \* \* \*

\* \* \* \* \*

*(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides.*

**[(E)] (F)** The Commissioner of Social Security shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection, section 807, or section 1631(a)(2), and

(ii) the address and social security account number of each individual for whom each representative payee is reported to



be providing services as representative payee pursuant to this subsection, section 807, or section 1631(a)(2).

**[(F)] (G)** Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 807 or 1631(a)(2) and which are located in the area served by such servicing office.

(4)(A)(i) **[A]** *Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—*

(I) 10 percent of the monthly benefit involved, or

(II) \$25.00 per month (\$50.00 per month in any case in which the individual is described in paragraph(1)(B)).

*A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.*

\* \* \* \* \*

(B) For purposes of this paragraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or **[any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee]** *any certified community-based nonprofit social service agency (as defined in paragraph (2)(C)(v)), if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—*

(i) \* \* \*

\* \* \* \* \*

(5) In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. *In any case in which a representative payee—*

*(i) that is not an individual (regardless of whether it is a "qualified organization" within the meaning of paragraph (4)(B)); or*

(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under title II, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (6)(B). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

[(6) The Commissioner of Social Security shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Commissioner of Social Security, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Commissioner of Social Security determines to be appropriate.]

(6)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or the individual's alternative representative payee.

(B) The total of the amount certified for payment to such individual or the individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

\* \* \* \* \*

(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this paragraph.

(9) The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title VIII, or title XVI to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

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

(B) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (2)(C)(v) or section 1631(a)(2)(B)(vii)); or

(C) the representative payee is an agency (other than an agency described in subparagraph (B)) that serves in that capacity with respect to 50 or more such individuals.

\* \* \* \* \*

PENALTIES

SEC. 208. (a) Whoever—

(1) \* \* \*

\* \* \* \* \*

(8) discloses, uses, or compels the disclosure of the social security number of any person in violation of the laws of the United States; or

(9) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number that purports to be a social security account number; or

(10) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) in possession of any individual's social security account number, or (in connection with section 205(c)(2)(C)(xi)) a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), or (xiv) of section 205(c)(2)(C); or

(11) knowingly sells or purchases (as defined in paragraphs (2) and (3) of subsection (d)) the social security account number of any person;

shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

[(b)] (c) Any person or other entity who is convicted of a violation of any of the provisions of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a certified payee under section 205(j) on behalf of another individual (other than such person's spouse), upon his second or any subsequent such conviction shall, in lieu of the penalty set forth in

the preceding provisions of this section, be guilty of a felony and shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both. In the case of any violation described in the preceding sentence, including a first such violation, if the court determines that such violation includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

[(c)] (d) Any individual or entity convicted of a felony under this section or under section 1632(b) may not be certified as a payee under section 205(j). [For the purpose of subsection (a)(7), the terms “social security number” and “social security account number” mean such numbers as are assigned by the Commissioner of Social Security under section 205(c)(2) whether or not, in actual use, such numbers are called social security numbers.]

(e)(1) For purposes of subsection (a)(7), the term “social security account number” means a number assigned by the Commissioner of Social Security under section 205(c)(2) whether or not, in actual use, such number is called a social security account number.

(2) For purposes of subsection (a)(11), the term “sell” in connection with a social security account number means to obtain, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a matching program, as defined in section 552a(a)(8)(A) of title 5, United States Code, or any other match referred to in section 552a(a)(8)(B) of such title.

(3) For purposes of subsection (a)(11), the term “purchase” in connection with a social security account number means to provide, directly or indirectly, anything of value in exchange for such number. Such term does not include the submission of such number as part of the process for applying for any type of Government benefits or programs (such as grants or loans or welfare or other public assistance programs). Such term also does not include transfers of such number as part of a matching program, as defined in section 552a(a)(8)(A) of title 5, United States Code, or any other match referred to in section 552a(a)(8)(B) of such title.

[(d)] (f)(1) Except as provided in paragraph (2), an alien—

(A) \* \* \*

\* \* \* \* \*

DEFINITION OF WAGES

SEC. 209. (a) For the purposes of this title, the term “wages” means remuneration paid prior to 1951 which was wages for the purposes of this title under the law applicable to the payment of such remuneration, and remuneration paid after 1950 for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that, in the case of remuneration paid after 1950, such term shall not include—

(1) \* \* \*

\* \* \* \* \*

(6)(A) \* \* \*

(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service [described in section 210(f)(5)] *on a farm operated for profit*), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;

\* \* \* \* \*

DEFINITION OF EMPLOYMENT

SEC. 210. For the purposes of this title—

Employment

(a) \* \* \*

\* \* \* \* \*

Agricultural Labor

(f) The term “agricultural labor” includes all service performed—

(1) \* \* \*

\* \* \* \* \*

(5) On a farm operated for profit if such service is not in the course of the employer’s trade or business [or is domestic service in a private home of the employer].

\* \* \* \* \*

SELF-EMPLOYMENT

SEC. 211. For the purposes of this title—

Net Earnings From Self-Employment

(a) The term “net earnings from self-employment” means the gross income, as computed under subtitle A of the Internal Revenue Code of 1986, derived by an individual from any trade or business carried on by such individual, less the deductions allowed under such subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of the ordinary net income or loss, as computed under section 702(a)(8) of such Code, from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary net income or loss—

(1) \* \* \*

\* \* \* \* \*

(7) An individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order shall compute his net earnings from self-employment derived from the performance of service described in subsection (c)(4) without regard to section 107 (relating to rental value of parsonages), section 119 (relating to meals and lodging furnished for the convenience of the employer), and section 911 (relating to earned income from sources without the United States) of

the Internal Revenue Code of 1986, *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;*

\* \* \* \* \*

(15) The deduction under section **[162(m)] 162(l)** (relating to health insurance costs of self-employed individuals) shall not be allowed.

\* \* \* \* \*

#### BENEFITS IN CASE OF MEMBERS OF THE UNIFORMED SERVICES

SEC. 229. (a) For purposes of determining entitlement to and the amount of any monthly benefit for any month after December 1972, or entitlement to and the amount of any lump-sum death payment in case of a death after such month, payable under this title on the basis of the wages and self-employment income of any individual, and for purposes of section 216(i)(3), such individual, if he was paid wages for service as a member of a uniformed service (as defined in section 210(m)) which was included in the term "employment" as defined in section 210(a) as a result of the provisions of section 210(l)(1)(A), shall be deemed to have been paid—

(1) \* \* \*

(2) in each calendar year occurring after 1977 *and before 2002* in which he was paid such wages, additional wages of \$100 for each \$300 of such wages, up to a maximum of \$1,200 of additional wages for any calendar year.

(b) There are authorized to be appropriated to each of the Trust Funds, consisting of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, for transfer on July 1 of each calendar year *before 2002* to such Trust Fund from amounts in the general fund in the Treasury not otherwise appropriated, an amount equal to the total of the additional amounts which would be appropriated to such Trust Fund for the fiscal year ending September 30 of such calendar year under section 201 or 1817 of this Act if the amounts of the additional wages deemed to have been paid for such calendar year by reason of subsection (a) constituted remuneration for employment (as defined in section 3121(b) of the Internal Revenue Code of 1986) for purposes of the taxes imposed by sections 3101 and 3111 of the Internal Revenue Code of 1986. Amounts authorized to be appropriated under this subsection for transfer on July 1 of each calendar year shall be determined on the basis of estimates of the Commissioner of Social Security of the wages deemed to be paid for such calendar year under subsection (a); and proper adjustments shall be made in amounts authorized to be appropriated for subsequent transfer to the extent prior estimates were in excess of or were less than such wages so deemed to be paid. Additional adjustments may be made in the amounts so authorized to be appropriated to the extent that the amounts transferred in accordance with clauses (i) and (ii) of section 151(b)(3)(B) of the Social Security Amendments of 1983 with respect to wages

deemed to have been paid in 1983 were in excess of or were less than the amount which the Commissioner of Social Security, on the basis of appropriate data, determines should have been so transferred. 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 calendar 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.

(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 has died or is 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 the date of death or 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(l)(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 the rate of basic pay for a 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 \$1,200 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)) and which 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 as are 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, that 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.

\* \* \* \* \*

## TITLE VII—ADMINISTRATION

\* \* \* \* \*

COMMISSIONER; DEPUTY COMMISSIONER; OTHER OFFICERS

### Commissioner of Social Security

SEC. 702. (a) \* \* \*

\* \* \* \* \*

### Inspector General

(e)(1) *IN GENERAL.*—There shall be in the Administration an Inspector General appointed by the President, by and with the advice and consent of the Senate, in accordance with section 3(a) of the Inspector General Act of 1978.

(2) *LAW ENFORCEMENT AUTHORITY.*—

(A) *SPECIFIC DESIGNATIONS.*—The Inspector General may designate one or more special agents in the Office of the Inspector General to exercise the authorities specified in subparagraph (B).

(B) *AUTHORITIES.*—A special agent in the Office of the Inspector General who is designated under subparagraph (A) may—

(i) carry firearms, while engaged in the special agent's official duties conducted pursuant to the Inspector General Act of 1978 (5 U.S.C. App.) or any other statute, or as expressly authorized by the Attorney General of the United States,



(ii) seek and execute warrants for arrest, search of premises, or seizure of evidence issued under the authority of the United States, upon probable cause to believe that a violation of law has been committed, and

(iii) make an arrest without a warrant, while engaged in the special agent's official duties conducted pursuant to the Inspector General Act of 1978 (5 U.S.C. App.) or any other statute, or as expressly authorized by the Attorney General, for—

(I) any offense against the United States committed in the presence of the special agent, or

(II) any felony cognizable under the laws of the United States, if the special agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(C) SPECIAL AGENT.—For purposes of this paragraph, the term “special agent” means an employee in the Office of the Inspector General whose duties include conducting, supervising, and coordinating investigations of criminal activity in the programs and operations of the Social Security Administration.

(D) USE OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.—

(i) IN GENERAL.—Any State or local law enforcement officer designated by the Inspector General, while assisting a special agent designated under subparagraph (A), may exercise the authorities provided under subparagraph (B).

(ii) APPLICABILITY OF PROVISIONS GOVERNING FEDERAL EMPLOYEES.—

(I) IN GENERAL.—Any such officer shall not be deemed a Federal employee, and, subject to subclause (II), shall not be subject to provisions of law relating to Federal employees, solely by reason of the exercise by such officer of any such authority.

(II) APPLICABILITY OF CERTAIN PROVISIONS.—While exercising such authority, such officer shall be subject to subsection (c) of section 3374 of title 5, United States Code, as if such officer were assigned and appointed as described in such section, except that nothing in this clause shall be construed to authorize Federal pay or other compensation for such officer.

(E) GUIDELINES ON EXERCISE OF AUTHORITIES.—The authorities provided under subparagraph (B) shall be exercised in accordance with guidelines prescribed by the Inspector General and approved by the Attorney General of the United States. Such guidelines shall be issued within 1 year after the date of the enactment of the Social Security Number Privacy and Identity Theft Prevention Act of 2000.

\* \* \* \* \*

ADMINISTRATIVE DUTIES OF THE COMMISSIONER

Personnel

SEC. 704. (a) \* \* \*

Budgetary Matters

(b)(1) \* \* \*

\* \* \* \* \*

(3)(A) *Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out title II, title VIII, and title XVI.*

(B) *Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.*

\* \* \* \* \*

**TITLE VIII—SPECIAL BENEFITS FOR CERTAIN WORLD WAR II VETERANS**

TABLE OF CONTENTS

Sec. 801. Basic entitlement to benefits.

\* \* \* \* \*

Sec. 810A. *Optional Federal administration of State recognition payments.*

\* \* \* \* \*

**SEC. 807. REPRESENTATIVE PAYEES.**

(a) \* \* \*

(b) EXAMINATION OF FITNESS OF PROSPECTIVE REPRESENTATIVE PAYEE.—

(1) \* \* \*

(2) As part of the investigation referred to in paragraph (1), the Commissioner of Social Security shall—

(A) \* \* \*

\* \* \* \* \*

(C) determine whether the person has been convicted of a violation of section 208, 811, or 1632; **[and]**

(D) *obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year; and*

**[(D)]** (E) determine whether payment of benefits to the person in the capacity as representative payee has been revoked or terminated pursuant to this section, section

205(j), or section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title, title II, or XVI, respectively.

\* \* \* \* \*

(d) PERSONS INELIGIBLE TO SERVE AS REPRESENTATIVE PAYEES.—

(1) IN GENERAL.—The benefits of a qualified individual may not be paid to any other person pursuant to this section if—

(A) \* \* \*

\* \* \* \* \*

(C) except as provided in paragraph (2)(B), the person is a creditor of the qualified individual and provides the qualified individual with goods or services for consideration.

*Benefits of an individual may not be paid to any other person pursuant to this subsection if such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction.*

\* \* \* \* \*

(h) ACCOUNTABILITY MONITORING.—

(1) \* \* \*

\* \* \* \* \*

(3) *AUTHORITY TO RESTRICT COLLECTION OF PAYMENTS BY PERSONS FAILING TO REPORT.—In any case in which the person described in paragraph (1) or (2) receiving payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the qualified individual, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the qualified individual resides.*

[(3)] (4) MAINTAINING LISTS OF PAYEES.—The Commissioner of Social Security shall maintain lists which shall be updated periodically of—

(A) the name, address, and (if issued) the social security account number or employer identification number of each representative payee who is receiving benefit payments pursuant to this section, section 205(j), or section 1631(a)(2); and

(B) the name, address, and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this section, section 205(j), or section 1631(a)(2).

[(4)] (5) MAINTAINING LISTS OF AGENCIES.—The Commissioner of Social Security shall maintain lists, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this section and which are located in the jurisdiction in which any qualified individual resides.

[(i) RESTITUTION.—In any case where]

(i) *RESTITUTION.*—

(1) *IN GENERAL.*—*In any case where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall make payment to the qualified individual or the individual's alternative representative payee of an amount equal to the misused benefits. In any case in which a representative payee—*

*(A) that is not an individual; or*

*(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;*

*misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (j)(2). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.*

(2) *COURT ORDER FOR RESTITUTION.*—

(A) *IN GENERAL.*—*Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.*

(B) *RELATED PROVISIONS.*—*Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.*

(C) *STATED REASONS FOR NOT ORDERING RESTITUTION.*—*If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.*

(j) *MISUSE OF BENEFITS.*—*For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this paragraph.*

(k) *PERIODIC ONSITE INSPECTION.*—*The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title II, or title XVI to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—*

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

(2) the representative payee is a certified community-based nonprofit social service agency (as defined in section 205(j)(2)(C)(v) or section 1631(a)(2)(B)(vii)); or

(3) the representative payee is an agency (other than an agency described in paragraph (2)) that serves in that capacity with respect to 50 or more such individuals.

(l) **LIABILITY FOR MISUSED AMOUNTS.**—

(1) **IN GENERAL.**—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or the individual's alternative representative payee.

(2) **LIMITATION.**—The total of the amount paid to such individual or the individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

\* \* \* \* \*

**SEC. 810A. OPTIONAL FEDERAL ADMINISTRATION OF STATE RECOGNITION PAYMENTS.**

(a) **IN GENERAL.**—The Commissioner of Social Security may enter into an agreement with any State (or political subdivision thereof) that provides cash payments on a regular basis to individuals entitled to benefits under this title under which the Commissioner shall make such payments on behalf of such State (or political subdivision).

(b) **AGREEMENT TERMS.**—

(1) **IN GENERAL.**—Such agreement shall include such terms as the Commissioner finds necessary to achieve efficient and effective administration of both this title and the State program which provides the cash payments referred to in subsection (a).

(2) **FINANCIAL TERMS.**—Such agreement shall provide for the State to pay the Commissioner, at such times and in such installments as the parties may specify—

(A) an amount equal to the expenditures made by the Commissioner pursuant to such agreement as payments to individuals on behalf of such State; and

(B) an administrative fee equal to the administrative expenses incurred by the Commissioner in making such payments.

(c) **SPECIAL DISPOSITION OF ADMINISTRATIVE FEES.**—Administrative fees, upon collection, shall be credited to a special fund established in the Treasury of the United States for State recognition payments for certain World War II veterans. The amounts so credited, to the extent and in the amounts provided in advance in appro-

*priations Acts, shall be available to defray expenses incurred in carrying out this title.*

\* \* \* \* \*

**TITLE XI—GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION**

\* \* \* \* \*

**SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLES II, VIII AND XVI.**

(a)(1) Any person (including an organization, agency, or other entity) **who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—**

**[(A) monthly insurance benefits under title II,**

**[(B) benefits or payments under title VIII, or**

**[(C) benefits or payments under title XVI,**

**that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to] who—**

*(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI that the person knows or should know is false or misleading,*

*(B) makes such a statement or representation for such use with knowing disregard for the truth, or*

*(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,*

*shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each such statement or representation or each receipt of such benefits or payments while withholding disclosure of such fact. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation or because of such withholding of disclosure of a material fact, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation or such a withholding of disclosure.*

(2) In addition, the Commissioner of Social Security may make a determination in the same proceeding to recommend that the Secretary exclude, as provided in section 1128, such a person who is a medical provider or physician from participation in the programs under title XVIII.

(3) *Any person (including an organization, agency, or other entity) who—*

(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

(D) knowingly buys or sells a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to buy or sell it;

(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to buy or sell it;

(F) discloses, uses, compels the disclosure of, or knowingly sells or purchases the social security account number of any person in violation of the laws of the United States;

(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

(I) being an officer or employee of any executive, legislative, or judicial agency or instrumentality of the Federal Government or of a State or political subdivision thereof (or a person acting as an agent of such an agency or instrumentality) or (in connection with section 205(c)(2)(C)(xi)) a trustee appointed in a case under title 11, United States Code (or an officer or employee thereof or a person acting as an agent thereof), in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation of clause (vi)(II), (x), (xi), (xii), or (xiv) of section 205(c)(2)(C);

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.

(4) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to

*any other penalties that may be prescribed by law, a civil money penalty of not more than \$5,000 for each conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such conversion, of not more than twice the amount of any payments so converted.*

[(2)] (5) For purposes of this section, a material fact is one which the Commissioner of Social Security may consider in evaluating whether an applicant is entitled to benefits under title II or title VIII, or eligible for benefits or payments under title XVI.

(b)(1) \* \* \*

\* \* \* \* \*

(3) In a proceeding under this section which—

(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal or State crime [charging fraud or false statements]; and

\* \* \* \* \*

(c) In determining pursuant to subsection (a) the amount or scope of any penalty or assessment, or whether to recommend and exclusion, the Commissioner of Social Security shall take into account—

(1) the nature of the statements [and representations], *representations, or actions* referred to in subsection (a) and the circumstances under which they occurred;

\* \* \* \* \*

(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Commissioner of Social Security and may be recovered—

(A) in a civil action in the name of the United States brought in United States district court for the district where the [statement or representation referred to in subsection (a) was made] *violation occurred*, or where the person resides, as determined by the Commissioner of Social Security;

\* \* \* \* \*

(2) Amounts recovered under this section shall be recovered under by the Commissioner of Social Security and shall be disposed of as follows:

(A) \* \* \*

(B) [In the case of amounts recovered arising out of a determination relating to title VIII or XVI,] *In the case of any other amounts recovered under this section*, the amounts shall be deposited by the Commissioner of Social Security into the general fund of the Treasury as miscellaneous receipts.

\* \* \* \* \*

**SEC. 1129A. ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES FOR FALSE OR MISLEADING STATEMENTS.**

(a) IN GENERAL.—Any person [who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

[(1) monthly insurance benefits under title II; or

[(2) benefits or payments under title XVI,



that the person knows or should know is false or misleading or knows or should know omits a material fact or who makes such a statement with knowing disregard for the truth shall be subject to, *who—*

*(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI that the person knows or should know is false or misleading,*

*(2) makes such a statement or representation for such use with knowing disregard for the truth, or*

*(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, if the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,*

*shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.*

\* \* \* \* \*

(e) DEFINITION.—In this section, the term “benefits under title XVI” includes State supplementary payments made by the Commissioner pursuant to an agreement under section 810A or 1616(a) of this Act or section 212(b) of Public Law 93–66.

\* \* \* \* \*

**[PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE] PROHIBITIONS RELATING TO REFERENCES TO SOCIAL SECURITY OR MEDICARE**

SEC. 1140. (a)(1) \* \* \*

\* \* \* \* \*

*(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, title VIII, or title XVI; or*

*(ii) to prepare, or assist in the preparation of, an individual’s plan for achieving self-support under title XVI.*

\* \* \* \* \*

## SOCIAL SECURITY ACCOUNT STATEMENTS

## Provision Upon Request

SEC. 1143. (a)(1) Beginning not later than October 1, 1990, the **【Secretary】** *Commissioner of Social Security* shall provide upon the request of an eligible individual a social security account statement (hereinafter referred to as the “statement”).

(2) Each statement shall contain—

(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the **【Secretary】** *Commissioner* at the date of the request;

(B) an estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for old-age, survivors, and disability insurance as shown by the records of the **【Secretary】** *Commissioner* on the date of the request;

(C) a separate estimate of the aggregate of the employer, employee, and self-employment contributions of the eligible individual for hospital insurance as shown by the records of the **【Secretary】** *Commissioner* on the date of the request; and

\* \* \* \* \*

## Notice to Eligible Individuals

(b) The **【Secretary】** *Commissioner* shall, to the maximum extent practicable, take such steps as are necessary to assure that eligible individuals are informed of the availability of the statement described in subsection (a).

## Mandatory Provision of Statements

(c)(1) By not later than September 30, 1995, the **【Secretary】** *Commissioner* shall provide a statement to each eligible individual who has attained age 60 by October 1, 1994, and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the **【Secretary】** *Commissioner* determines to be appropriate. In fiscal years 1995 through 1999 the **【Secretary】** *Commissioner* shall provide a statement to each eligible individual who attains age 60 in such fiscal years and who is not receiving benefits under title II and for whom a current mailing address can be determined through such methods as the **【Secretary】** *Commissioner* determines to be appropriate. The **【Secretary】** *Commissioner* shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

(2) Beginning not later than October 1, 1999, the **【Secretary】** *Commissioner* shall provide a statement on an annual basis to each eligible individual who is not receiving benefits under title II and for whom a mailing address can be determined through such methods as the **【Secretary】** *Commissioner* determines to be appropriate. With respect to statements provided to eligible individuals who have not attained age 50, such statements need not include estimates of monthly retirement benefits. However, if such statements provided to eligible individuals who have not attained age 50 do not include estimates of retirement benefit amounts, such state-

ments shall include a description of the benefits (including auxiliary benefits) that are available upon retirement.

\* \* \* \* \*

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

\* \* \* \* \*

PART A—DETERMINATION OF BENEFITS

\* \* \* \* \*

RESOURCES

Exclusions From Resources

SEC. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) \* \* \*

\* \* \* \* \*

(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F); **[and]**

(13) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

(A) in the case of an in-kind gift, if the gift is not converted to cash; or

(B) in the case of a cash gift, only to the extent that the total amount excluded from the resources of the individual pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000~~[,]~~; *and*

(14) *for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII misused by the representative payee.*

\* \* \* \* \*

PART B—PROCEDURAL AND GENERAL PROVISIONS

PAYMENTS AND PROCEDURES

Payment of Benefits

SEC. 1631. (a)(1) Benefits under this title shall be paid at such time or times and (subject to paragraph (10)) in such installments as will best effectuate the purposes of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed \$10).

(2)(A)(i) \* \* \*

\* \* \* \* \*

(iv) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this clause.

(B)(i) \* \* \*

(ii) As part of the investigation referred to in clause (i)(I), the Commissioner of Social Security shall—

(I) \* \* \*

\* \* \* \* \*

(III) determine whether such person has been convicted of a violation of section 208, 811, or 1632; **[and]**

(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year; and

**[(IV)] (V)** determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(iii), whether the designation of such person as a representative payee has been revoked pursuant to section 807(a), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II, title VIII, or this title.

(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

(I) such person has previously been convicted as described in clause (ii)(III);

(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause **[(ii)(IV)] (ii)(V)**, the designation of such person as a representative payee has been revoked pursuant to section 807(a), or certification of payment of benefits to such person under section 205(j) has previously been revoked as described in section **[(205(j)(2)(B)(i)(IV)] 205(j)(2)(B)(i)(V)**; or

(III) except as provided in clause (v), such person is a creditor of such individual who provides such individual with goods or services for consideration.

*Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if such person has previously been convicted as described in clause (ii)(IV), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction.*

\* \* \* \* \*

(vii) In the case of an individual described in subparagraph (A)(ii)(II), when selecting such individual's representative payee, preference shall be given to—

(I) **[a community-based nonprofit social service agency licensed or bonded by the State]** *a certified community-based nonprofit social service agency;*

\* \* \* \* \*

(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Commissioner of Social Security deems it appropriate,

unless the Commissioner of Social Security determines that selection of a family member would be appropriate. *For purposes of subclause (I), the term “certified community-based nonprofit social service agency” means a community based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.*

\* \* \* \* \*

(C)(i) \* \* \*

\* \* \* \* \*

*(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice and opportunity for a hearing to such person and the individual entitled to such payment, require that the person collect such payments in person at a field office of the Social Security Administration serving the area in which the individual resides.*

(D)(i) **[A]** *Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual’s representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—*

(I) 10 percent of the monthly benefit involved, or

(II) \$25.00 per month (\$50.00 per month in any case in which an individual is described in subparagraph (A)(ii)(II)).

*A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner of Social Security shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 215(i)(2)(A), except that any amount so ad-*

justed that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00. Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of such individual's benefits.

(ii) For purposes of this subparagraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, [or any community-based nonprofit social service agency, which—

[(I) is bonded or licensed in each State in which the agency serves as a representative payee; and

[(II) in accordance] *or any certified community-based nonprofit social service agency (as defined in subparagraph (B)(vii)), if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—*

[(aa)] *(I) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) or 807 concurrently to 5 or more individuals; and*

[(bb)] *(II) demonstrates to the satisfaction of the Commissioner of Social Security that such agency is not otherwise a creditor of any such individual.*

The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant an exception from [subclause (II)(bb)] *subclause (II)* for any individual on a case-by-case basis if such exception is in the best interests of such individual.

(E) RESTITUTION.—In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. *In any case in which a representative payee—*

*(i) that is not an individual (regardless of whether it is a "qualified organization" within the meaning of subparagraph (D)(ii)); or*

*(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under title II, title VIII, title XVI, or any combination of such titles;*

*misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's alternative representative payee of an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (F)(ii).* The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

\* \* \* \* \*

[(G) The Commissioner of Social Security shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

[(i) the number of cases in which the representative payee was changed;

[(ii) the number of cases discovered where there has been a misuse of funds;

[(iii) how any such cases were dealt with by the Commissioner of Social Security;

[(iv) the final disposition of such cases (including any criminal penalties imposed); and

[(v) such other information as the Commissioner of Social Security determines to be appropriate.]

*(G)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this paragraph, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to clause (ii), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or the individual's alternative representative payee.*

*(ii) The total of the amount paid to such individual or the individual's alternative representative payee under clause (i) of this subparagraph and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.*

\* \* \* \* \*

*(I) The Commissioner of Social Security shall provide for the periodic onsite inspection of any person or agency that receives the benefits payable under this title, title II, or title VIII to another individual pursuant to the appointment of such person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—*

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

*(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in section 205(j)(2)(C)(v) or section 1631(a)(2)(B)(vii)); or*

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

\* \* \* \* \*

PENALTIES FOR FRAUD

SEC. 1632. (a) \* \* \*

*(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.*

*(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders*

*of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.*

*(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.*

**[(b)]** (c)(1) If a person or entity violates subsection (a) in the person's or entity's role as, or in applying to become, a representative payee under section 1631(a)(2) on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.

\* \* \* \* \*

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**SECTION 603 OF THE FAIR CREDIT REPORTING ACT**

**§ 603. Definitions and rules of construction**

(a) \* \* \*

\* \* \* \* \*

(d) CONSUMER REPORT.—

(1) IN GENERAL.—The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for—

(A) credit or insurance to be used primarily for personal, family, or household purposes;

(B) employment purposes; or

(C) any other purpose authorized under section 604.

*The term also includes information regarding the social security account number of the consumer or any derivative thereof.*

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**INTERNAL REVENUE CODE OF 1986**

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**Subtitle C—Employment Taxes**

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**CHAPTER 21—FEDERAL INSURANCE CONTRIBUTIONS ACT**

\* \* \* \* \*



## Subchapter A—Tax on Employees

\* \* \* \* \*

### SEC. 3102. DEDUCTION OF TAX FROM WAGES.

(a) REQUIREMENT.—The tax imposed by section 3101 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. An employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than the applicable dollar threshold (as defined in section 3121(x) for such year; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (7)(C) or (10) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$100; and an employer who in any calendar year pays to an employee cash remuneration to which paragraph (8)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax from any such payment of remuneration, even though at the time of payment the total amount of such remuneration paid to the employee by the employer in the calendar year is less than \$150 [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]; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053(a) to which paragraph (12)(B) of section 3121(a) is applicable may deduct an amount equivalent to such tax with respect to such tips from any wages of the employee (exclusive of tips) under his control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of his employment by such employer is less than \$20.

\* \* \* \* \*

## Subchapter C—General Provisions

\* \* \* \* \*

### SEC. 3121. DEFINITIONS.

(a) WAGES.—For purposes of this chapter, the term “wages” means all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash; except that such term shall not include—

(1) \* \* \*

\* \* \* \* \*

(7)(A) remuneration paid in any medium other than cash to an employee for service not in the course of the employer’s trade or business or for domestic service in a private home of the employer; (B) cash remuneration paid by an employer in

any calendar year to an employee for domestic service in a private home of the employer (including domestic service [described in subsection (g)(5)] *on a farm operated for profit*), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;

\* \* \* \* \*

(g) AGRICULTURAL LABOR.—For purposes of this chapter, the term “agricultural labor” includes all service performed—

(1) \* \* \*

\* \* \* \* \*

(5) on a farm operated for profit if such service is not in the course of the employer’s trade or business [or is domestic service in a private home of the employer]. As used in this subsection, the term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

\* \* \* \* \*

**SECTION 302 OF THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999**

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

(a) \* \* \*

\* \* \* \* \*

[(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.]

(f) EXPENDITURES.—

(1) IN GENERAL.—*Except as provided in paragraph (2), expenditures made for the 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.*

(2) ADMINISTRATIVE EXPENDITURES.—*Administrative expenditures for the demonstration projects under this section incurred by the Commissioner of Social Security shall be made from funds available pursuant to section 201(g) of the Social Security*

*Act, to the extent or in the amounts provided in advance in appropriation Acts.*

