meaningful gun safety measures in this country. In a couple of weeks, it will be the 6th year anniversary of the Long Island Railroad Massacre, where my husband was killed and a number of my neighbors were killed, and my son was injured, and an awful lot of people were injured on that.

We do not want the American people to forget the pain that is left with so many victims, so we here in Congress are trying to stop future pain to our children and to American citizens.

It can be taken off the table as far as a political issue. Let us all meet together at a conference. That is all we have been asking for. We are hearing this and that. I am on the conference, and we have not met.

I have to tell the Members, if the NRA amendment had passed in this House, it was more than just being imperfect, it was dangerous. If the NRA amendment had been law over the first 6 months of 1999, 17,000 people who were stopped by our current background check would now be armed. In fact, if the 24-hour policy had been in effect, we know of cases where murderers, rapists, and kidnappers would be walking around with guns.

This has nothing to do with second amendment rights, this has to do with keeping guns out of the hands of criminals. That is what we are supposed to do. But fortunately, and I will say this, Republicans and Democrats did work together, and together we prevented the NRA amendment from becoming law.

I think that is important here, because when we speak to the people, the American people, and it does not matter whether they are Republicans or Democrats, they want something done. That is what this House is supposed to be doing.

That is why we had the Columbine clock, to remind the American people that we still have time to do something before we leave. I know there are many of us that are willing to work through Thanksgiving, through Christmas, to make sure that our citizens are safe.

We have all tried to work in a bipartisan manner. We certainly have had people on both sides of the aisle support my amendment, which would have closed the gun show loophole, made sure that criminals and especially children do not get their hands on guns. I think that is what we have to do.

We should have passed safety reform in this Congress, real gun safety reform that keeps the guns out of the hands of felons. That is what we did not do in this Congress because each day that we have not done something we continue to lose victims across this country. We continue to see too much pain. That is not what this country is about.

I thank the gentleman from New York (Mr. Owens) and I thank my colleagues from Connecticut (Ms. DeLauro), for letting us answer these questions.

Mr. Owens. Mr. Speaker, I thank my colleagues for joining me.

RECESS

The Speaker pro tempore (Mr. Driehar) at 11 o'clock and 2 minutes p.m.

TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. Armey submitted the following conference report and statement on the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes:

CONFERENCE REPORT (H. REPT. 106-478)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

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

Subtitle A—Ticket to Work and Self-Sufficiency
Sec. 101. Establishment of the Ticket to Work and Self-Sufficiency Program.
Subtitle B—Elimination of Work Disincentives
Sec. 111. Work activity standard as a basis for review of an individual's disabled status.
Sec. 112. Expedited reinstatement of disability benefits.
Subtitle C—Work Incentives Planning, Assistance, and Outreach
Sec. 121. Work incentives outreach program.
Sec. 122. State grants for work incentives assistance to disabled beneficiaries.

TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE ESSENTIALS
Sec. 201. Expanding State options under the medicaid program for workers with disabilities.
Sec. 203. Grants to develop and establish State infrastructure to support working individuals with disabilities.
Sec. 204. Demonstration of coverage under the medicaid program of workers with potentially severe disabilities.
Sec. 205. Election by disabled beneficiaries to suspend medicaid insurance when covered under a group health plan.

TITLE III—DEMONSTRATION PROJECTS AND STUDIES
Sec. 301. Extension of disability insurance program demonstration project authority.
Sec. 302. Demonstration projects providing for reductions in disability insurance benefits based on earnings.
Sec. 303. Studies and reports.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS
Sec. 401. Technical amendments relating to drug addicts and alcoholics.
Sec. 402. Treatment of prisoners.
Sec. 403. Revocation by members of the clergy of exemption from social security coverage.
Sec. 404. Additional technical amendment relating to cooperative research or demonstration projects under titles II and XVI.
Sec. 405. Authorization for State to permit annual wage reports.
Sec. 406. Assessment on attorneys who receive their fees via the Social Security Administration.
Sec. 407. Extension of authority of State medical fraud control units.
Sec. 408. Climate database modernization.
Sec. 409. Special allowance adjustment for students.
Sec. 410. Schedule for payments under SSI state demonstration projects under titles II and XVI.
Sec. 411. Bonuses, commodities.
Sec. 412. Simplification of definition of foster child under EIC.
Sec. 413. Delay of effective date of organ procurement and organ transplantation network final rule.

TITLE V—TAX RELIEF EXTENSION ACT OF 1999
Sec. 500. Short title of title.
Subtitle A—Extensions and Sunsets
Sec. 501. Allowance of nonrefundable personal credits against regular and minimum tax liability.
Sec. 502. Research credit.
Sec. 503. Subpart F exemption for active financing income.
Sec. 504. Taxable income limit on percentage deduction for marginal production.
Sec. 505. Work opportunity credit and welfare-to-work credit.
Sec. 506. Employer-provided educational assistance.
Sec. 507. Extension and modification of credit for producing electricity from certain renewable resources.
Sec. 508. Extension of duty-free treatment under Generalized System of Preferences.

Subtitle B—Other Time-Sensitive Provisions
Sec. 509. Extension of credit for holders of qualified zone academy bonds.
Sec. 510. Extension of first-time homebuyer credit for District of Columbia.
Sec. 511. Extension of expensing of environmental work incentives.
Sec. 512. Temporary increase in amount of run on exercise tax covered over to Puerto Rico and Virgin Islands.

Subtitle C—Revenue Offsets
Sec. 531. Modification of estimated tax safe harbor.
Sec. 532. Clarification of tax treatment of income and loss on derivatives.
Sec. 533. Expansion of reporting of cancellation of indebtedness income.
Sec. 534. Limitation on conversion of character of income from constructive ownership transactions.
Sec. 535. Treatment of advance payment assets used for retiree health benefits.
Sec. 536. Modification of installment method and repeal of installment method for accrual method taxpayers.
Sec. 537. Denial of charitable contribution deduction for transfers associated with split-dollar insurance arrangements.
Sec. 538. Distributions by a partnership to a corporate partner of stock in another corporation.

Subpart A—TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES
Sec. 541. Modifications to asset diversification test.
Sec. 542. Treatment of income and services provided by taxable REIT subsidiaries.
Sec. 543. Taxable REIT subsidiary.
Sec. 544. Limitation on earnings stripping.
Sec. 545. 100 percent tax on improperly allocated amounts.
Sec. 546. Effective date.
Sec. 547. Study relating to taxable REIT subsidiaries.

Subpart B—HEALTH CARE REITS
Sec. 551. Health care REITs.
Sec. 552. Conformity with regulated investment company rules.
Sec. 553. Conformity with regulated investment company rules.
Sec. 554. Clarification of exception from permissible tenant service income.
Sec. 555. Clarification of exception for independent operators.

Subpart C—MODIFICATION OF EARNINGS AND PROFITS RULES
Sec. 556. Modification of earnings and profits rules.
Sec. 557. Clarification of estimated tax rules for closely held real estate investment trusts.

Subpart D—CLARIFICATION OF EXCISE TAXES ON MEDICARE BENEFICIARIES
Sec. 558. Clarification of excise taxes on Medicare beneficiaries.

Subpart E—MODIFICATION OF ESTIMATED TAX RULES
Sec. 559. Clarification of estimated tax rules for Medicare beneficiaries.

SEC. 2. FINDINGS AND PURPOSES.
(a) Findings.—The Congress makes the following findings: (1) It is the policy of the United States to provide assistance to individuals with disabilities to obtain and retain employment.
(b) Purpose.—It is the purpose of this Act—(1) to provide assistance to individuals with disabilities to obtain and retain employment.
to assist them in entering work and achieving financial independence to the best of their abilities.

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

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

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

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

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

TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS
Subtitle A—Ticket to Work and Self-Sufficiency

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

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

"THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM".

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

(b) Ticket System.—(1) DISTRIBUTION OF TICKETS.—The Commissioner shall issue a ticket to work and self-sufficiency to a disabled beneficiary to participate in the Ticket to Work Program.

(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary may use a ticket to work and self-sufficiency to pursue employment by assigning the ticket to an employment network of the beneficiary's choice that is willing to serve under the Program and is willing to accept the assignment.

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

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

(c) STATE PARTICIPATION.—(1) FACILITATION AND SUPERVISION.—The State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may elect to consult and enter into agreements with employment networks for service under the Program.

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

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

(d) QUALITY ASSURANCE.—The Commissioner shall provide for the periodic review of the performance of employment networks to ensure the quality of services provided to beneficiaries.

(e) PROGRAM MANAGERS.—(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and enter into agreements with, eligible and qualified employment networks for service under the Program.

(3) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(4) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(5) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(6) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(7) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

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(10) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

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(12) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(13) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(14) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.

(15) SELECTION OF EMPLOYMENT NETWORKS.—The Commissioner shall select, or enter into agreements with, employment networks for service under the Program.
the Program. When such a change occurs, the program manager shall notify the beneficiary and the workforce investment act of 1998 (29 U.S.C. 2811 et seq.).

"(4) Ensuring availability of adequate services.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager’s agreement, including rural areas.

"(5) Reasonable access to services.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks, available in each employment area covered under the program manager's agreement, and other support services are provided throughout the geographic area covered under the program manager's agreement, including rural areas.

"(6) Employment networks.—

"(1) Qualifications for employment networks.—

"(A) In general.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, that assumes responsibility for the coordination and delivery of services under the Program to individuals assigned to the employment network to work and self-sufficiency issued under section 119 of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

"(B) One-stop delivery systems.—An employment network serving under the Program may consist of a one-stop delivery system established under section 119 of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

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

"(D) Single or associated providers allowed.—An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e) by providing services directly, or by entering into agreements with other employers, service providers, other employment networks, or other support services.

"(2) Requirements relating to provision of services.—Each employment network serving under the Program shall be required to provide the services described in paragraphs (3) and (4) of subsection (k) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

"(3) Program milestones and milestones for payment authorized by the Commissioner to the employment network with respect to each beneficiary is less than, on a net present value basis the payment to the employment network for services provided under the Program by, or under agreements entered into with, the employment network are provided under the Program by, or under agreements entered into with, the employment network are provided under the Program by, or under agreements entered into with, the employment network.

"(4) Effective upon written approval.—A beneficiary’s individual work plan shall take effect upon written approval by the beneficiary or representative and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary’s ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grants program authorized under section 119 of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

"(5) Employment network payment systems.—

"(A) In general.—The outcome-milestone payment system shall consist of a payment structure governing employment networks elected by such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) Early payments upon attainment of milestones in advance of outcome payment periods.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure that provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

"(C) Limitation on total payments to employment network.—The payment schedule of the outcome milestone payment system shall be designed so that—

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

"(ii) the maximum payment for any payment period is a percentage which does not exceed 40 percent.

"(2) Outcome-payment system.—The payment schedule of the outcome payment system shall be designed so that—

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

"(ii) the maximum payment for any payment period is a percentage which does not exceed 40 percent.

"(3) Outcome-milestone payment system.—

"(A) In general.—The outcome-milestone payment system shall consist of a payment structure governing employment networks elected by such system under paragraph (1)(A) which meets the requirements of this paragraph.

"(B) Early payments upon attainment of milestones in advance of outcome payment periods.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment.

"(C) Limitation on total payments to employment network.—The payment schedule of the outcome milestone payment system shall be designed so that—

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

"(ii) the maximum payment for any payment period is a percentage which does not exceed 40 percent.

"(2) Effective upon written approval.—A beneficiary’s individual work plan shall take effect upon written approval by the beneficiary or representative and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary’s ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grants program authorized under section 119 of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

"(3) Program milestones and milestones for payment authorized by the Commissioner to the employment network with respect to each beneficiary is less than, on a net present value basis the payment to the employment network for services provided under the Program by, or under agreements entered into with, the employment network are provided under the Program by, or under agreements entered into with, the employment network are provided under the Program by, or under agreements entered into with, the employment network.

"(4) Effective upon written approval.—A beneficiary’s individual work plan shall take effect upon written approval by the beneficiary or representative and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary’s ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grants program authorized under section 119 of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

"(5) Employment network payment systems.—

"(A) In general.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month that occurs during the individual’s outcome payment period, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

"(B) Early payments upon attainment of milestones in advance of outcome payment periods.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment.

"(C) Limitation on total payments to employment network.—The payment schedule of the outcome milestone payment system shall be designed so that—

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

"(ii) the maximum payment for any payment period is a percentage which does not exceed 40 percent.
with respect to the beneficiary would be limited if the employment or work paid under the outcome payment system.

“(4) DEFINITIONS.—In this subsection:

“(A) PAYMENT CALCULATION BASE.—The term ‘payment calculation base’ means, for any calendar year, the average payment of cash benefits under title XVI of the Social Security Act to a beneficiary or a title XVI disability beneficiary, the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 65 years of age.

“(B) OUTCOME PAYMENT PERIOD.—The term ‘outcome payment period,’ in connection with any individual who has been granted a ticket to work and self-sufficiency to an employment network, means the period of time specified in paragraph (4)(B) with respect to whom benefits are paid.

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

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

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

“(D) Section 1633(c) of such Act (42 U.S.C. 1382d(c)) is amended by striking ‘a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services’.

“(E) Section 1615(a) of such Act (42 U.S.C. 1382d(a)(6)(A)) is amended by striking ‘a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services’.

“(F) The amendments made by paragraphs (a) and (d) of section 1148(i).''.

“(2) AMENDMENTS TO TITLE XVI.—

“(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)(6)(A)) is amended by striking ‘a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services’.

“(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is amended by striking ‘a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services’.

“(C) Section 1615(b) of such Act (42 U.S.C. 1382d(b)) is amended by striking ‘a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services’.

“(D) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is amended—

“(i) by inserting ‘(1)’ after ‘(c)’; and

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

‘‘(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual’s blindness, an individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.’’

“(E) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (d) of section 1148(i) shall take effect 1 month following 1 year after the date of the enactment of this Act.
GRAM.—

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of amendments made by subsection (a) of section 1148(d) (consideration, so as to ensure that the most effective methods are determined and that information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

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

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

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall provide for independent evaluations to assess the effectiveness of the activities carried out under this section and the amendments made thereby. Such evaluations shall address the cost-effectiveness of such activities, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) CONSULTATION.—Evaluations shall be conducted under this paragraph after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation, quality assurance, and consulting with the Ticket to Work and Work Incentives Advisory Panel established under section 222(d)(2) of the Social Security Act, the Comptroller General of the United States, other agencies of the Federal Government, and private organizations with appropriate expertise.

(C) METHODOLOGY.—

(i) IMPLEMENTATION.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 222(d)(2) of this Act, shall ensure that plans for evaluations and data collection methods under the Program are appropriately designed to obtain detailed employment information.

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

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

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

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

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

(V) the employment outcomes, including changes in earnings, job loss, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the determinants of return to work, in possession of tickets under the Program who are not accepted for services, and to the extent reasonably determinable, the reasons for which such beneficiaries were not accepted for services;

(VII) the characteristics of providers whose services are provided within an employment network and to those who do not return to work; and

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

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

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

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

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

(5) EXTENT OF STATE’S RIGHT OF FIRST REFUSAL IN CONNECTION WITH IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

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

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

(ii) the authority of the Commissioner under section 1148(c)(2) of such Act (42 U.S.C. 422(c)(2)) to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individual work plans pursuant to section 1148(h) of such Act, including—

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

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

(iii) the specific regulations required to be adopted for the provision of annual financial reporting by employment networks pursuant to section 1148(f)(3) of such Act; and

(iv) the national model to which periodic outcome measurement systems comply under section 1148(h)(3) of such Act; and

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

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

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

(C) the form and manner in which State agents are certified in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of such Act and provision for periodic opportunities for exercising such elec-
(1) ESTABLISHMENT.—There is established within the Social Security Administration a panel to be known as the “Ticket to Work and Work Incentives Advisory Panel” (in this subsection referred to as the “Panel”).

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

(A) advise the President, the Congress, and the Commissioner of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act and the Ticket to Work and Work Incentives Act; and

(B) recommend that the ticket to work program be applied to those with the most effective designs for research and demonstration projects to related payment systems, and management information systems to provide beneficiaries of disability, disabled beneficiaries to employment networks, and disabled beneficiaries to employment networks.

IV. Ticket to Work and Self-Sufficiency Program established under section 1148 of such Act—

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

(ii) advise the Commissioner of Social Security with respect to such research and development projects and work incentive projects described in section 302 of this Act; and

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

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

(3) MEMBERSHIP.—

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

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

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

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

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

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

(B) REPRESENTATION.—

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

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

(C) CHAIRPERSON.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years, except as provided in clause (ii).

(ii) RECOMMENDATION.—The members appointed under subparagraph (A) shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—Of the members appointed under each clause of subparagraph (A), as designated by the appointing authority for each such clause—

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

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

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

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

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

(vi) QUORUM.—4 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

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

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

(iv) DIRECTOR AND STAFF OF PANEL, EXPERTS AND CONSULTANTS.—

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

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

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

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

(ii) The personnel of the Social Security Administration shall be paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(v) POWERS OF PANEL.—

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

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

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

(vi) REPORTS.—

(A) INTERIM REPORTS.—The Panel shall submit to the President and the Congress interim reports at such times as the President shall designate.

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

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

(a) AUTHORIZATION.—

(1) APPOINTMENTS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund, such sums as may be necessary to carry out this subsection.

Title II—Elimination of Work Disincentives

SEC. 111. WORK ACTIVITY STANDARDS AS A BASIS FOR REVIEW OF AN INDIVIDUAL’S DISABLED STATUS.

(a) IN GENERAL.—Section 221 of the Social Security Act (42 U.S.C. 422) is amended by adding at the end the following new subsection:

(2) An individual who has been determined to be disabled and who is not with respect to such determination a disabled individual as defined in section 223 of the Act, of the date of the determination, under section 221 of the Act, that the individual is no longer disabled, and

(3) the Commissioner determines that the individual is under a disability and has been determined entitled to, and has accepted, benefits on the basis of such disability, shall be reviewed by the Commissioner to determine whether the individual is under a disability as defined in section 223 of the Act;

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.
“(iii) the individual’s disability renders the individual unable to perform substantial gainful activity.

“(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month in which the Commissioner determines that the individual’s disability has lasted for a period of 12 months or more or is expected to last for such a period or would, in the absence of such disability, render the individual incapable of engaging in substantial gainful activity.

“(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in paragraph (2)(A)(i)(II), the Commissioner determines that the individual does not meet the requirements of paragraph (2)(A)(i)(II), or the provisions of this paragraph if—

“(1) the individual’s eligibility for benefits under such title (including section 202) is reinstated with respect to any person previously entitled to such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;

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

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

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

“(C)(ii) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month in which the Commissioner determines that the individual is not entitled to reinstated benefits under this subsection unless the Commissioner determines that an individual meets the requirements specified in subparagraph (B)(i)(II).

“(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with subparagraph (A) may institute an application for benefits in the case of any individual who the Commissioner determines is not entitled to reinstated benefits under this subsection.

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

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

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

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

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

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

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

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

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

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

“(iii) The third month following the month in which the individual’s disability ceases.

“(2) Whenever an individual’s entitlement to benefits under such title is reinstated under this subsection, entitlement to benefits payable on the basis of such individual’s wages and self-employment income may be reinstated with respect to any such person to the same extent that they were payable prior to such reinstatement filed in accordance with subparagraph (B)(i)(II).

“(3) In determining whether an individual is entitled to reinstated benefits under this section, eligibility for such benefits under such title is reinstated under an application filed therefor; and

“(4) In determining whether an individual is entitled to reinstated benefits under this section, eligibility for benefits under such title with respect to any person previously entitled to such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months.

“(B) An individual described in this subsection is entitled to reinstated benefits under this title if—

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

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

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

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

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

“(iii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

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

“(1) The amount of a provisional benefit for a month shall equal the amount of the last benefit payable to the individual under such title during the period prescribed in this subparagraph with respect to such individual.

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

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

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

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

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

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

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

“(E) The provisions of paragraph (2)(A)(i) shall apply in accordance with the provisions of this title.

“(ii) An individual is described in this subsection if—

“(1) the individual was eligible for benefits under such title on the basis for the finding of blindness or disability pursuant to an application filed therefor;

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

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

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

“(5) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

“(F) An individual is described in this subsection if—

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

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

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

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

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

“(iii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

“(G) An individual is described in this subsection if—

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

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

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

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

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

“(ii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

“(H) An individual is described in this subsection if—

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

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

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

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

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

“(ii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

“(I) An individual is described in this subsection if—

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

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

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

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

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

“(ii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.

“(J) An individual is described in this subsection if—

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

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

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

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

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

“(ii) the individual satisfies the nonmedical requirements for eligibility for benefits under this subsection.
benefits except requirements related to the filing of an application for benefits under subsection (p) of such Act (42 U.S.C. 1383(i)(1)(B)(i)) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.

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

``(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (5)(A)(iii).

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

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

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

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

``(8) For purposes of this subsection other than paragraph (7), the term 'benefits' includes any benefits payable in accordance with this Act or section 212(b) of Public Law 93-66.''

(2) CONFORMING AMENDMENTS.—

(A) Section 1631(h)(1) of such Act (42 U.S.C. 1381(h)(1)) is amended by striking the period and inserting '' or has filed a request for reinstatement of eligibility under subsection (p) and been determined to be eligible for reinstatement.

(B) Section 1631(h)(2)(A)(i)(I) of such Act (42 U.S.C. 1381(h)(2)(A)(i)(I)) is amended by inserting ("other than pursuant to a request for reinstatement under subsection (p)") after ''eligible''.

(c) EFFECTIVE DATE.—

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

(2) LIMITATION.—No benefit shall be payable under this title or the Commissioner shall make a determination regarding the reinstatement of eligibility under this title with the same kind and amount of income.

Subtitle C—Work Incentives Planning, Assistance, and Outreach

SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.

Part A of title XI of the Social Security Act (42 U.S.C. 1310 et seq.), as amended by section 101 of this Act, is amended by adding after section 1148 the following new section:

"WORK INCENTIVES OUTREACH PROGRAM. "(Sec. 1149. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner, in consultation with the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), shall establish a comprehensive program for the purpose of disseminating accurate information to disabled beneficiaries on work incentives programs and issues related to such programs.

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

"(A) establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1119, the program established under section 1619, and other programs that are designed to encourage disabled beneficiaries to work;

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

"(i) preparing and disseminating information explaining such programs; and

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

"(C) establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will provide benefits planning and assistance regarding rehabilitation, work-to-work programs, transition services (as defined in, and provided in accordance with, the Individual with Disabilities Education Act (20 U.S.C. 1400 et seq.), a one-stop delivery system established under title B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), and other services.

"(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to a State or a private agency or organization (other than Social Security Administration Federal or State agency administering the State medicaid program under title XIX, including any agency or entity described in clause (ii), that the Commissioner determines is qualified to provide the planning, assistance, and information described in paragraph (2)) unless the State or private agency or organization is the only agency or organization that meets the requirements of this section.

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

"(i) Any public or private agency or organization, including those described in subsection (a) that is established under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), protection and advocacy organizations, client assistance programs established under section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732), and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6054) that the Commissioner determines satisfies the requirements of this section.

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

"(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to an entity that the Commissioner determines would have a conflict of interest if the entity would serve as the Commissioner's agent or contractor under this section.

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

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

"(ii) adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health
benefits coverage may be available to the individual—

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

(3) STATE GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—

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

(B) LIMITATIONS.—

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

(ii) TOTAL AMOUNT FOR ALL GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed $21,000,000.

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

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

(B) DEFINITION OF EMPLOYED INDIVIDUAL.—The term ‘disabled beneficiary’ has the meaning given that term in section 1148(k)(2).

(C) DEFINITIONS.—In this section:

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

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

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

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

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 121 of this Act, is amended by adding after section 1149(k)(2) the following new section:

“STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES.—

Sec. 1150. (a) IN GENERAL.—Subject to subsection (c), the Commissioner may make payments to a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6061 et seq.) for the purpose of providing services to disabled beneficiaries.

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

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

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

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

(d) AMOUNT OF PAYMENTS.—Subject to the amount appropriated for a fiscal year for making payments under this section, a protection and advocacy system shall not be paid an amount that is less than

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

(1) $100,000; or

(ii) ½ of 1 percent of the amount available for payments under this section; and

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

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

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

(f) FUNDING.—

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

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

(g) DEFINITIONS.—In this section:

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

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

(3) PROTECTION AND ADVOCACY SYSTEM.—The term ‘protection and advocacy system’ means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6061 et seq.).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of the fiscal years 1999 through 2003.

TITLE IV—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES

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

(a) IN GENERAL.—

(I) STATE OPTION TO ELIMINATE INCOME, ASSET, AND RESOURCE LIMITATIONS FOR WORKERS WITH DISABILITIES BUYING INTO MEDICAID.—

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1) of section 148(b)(1), is amended—

(i) in clause (xvi), by striking ‘‘or’’ at the end;

(ii) by striking ‘‘or’’ at the end of clause (xv); and

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

‘‘(XVI) who, but for earnings in excess of the limit established under section 1905(q)(2)(B), would be eligible to receive supplemental medical assistance or income, who is at least 16, but less than 65, years of age, and whose assets and resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the Secretaries may establish;’’.

(II) STATE OPTION TO PROVIDE OPPORTUNITY FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1) of section 148(b)(1), is amended—

(i) in subsection (XIV), by striking ‘‘or’’ at the end;

(ii) in subsection (XV), by adding ‘‘or’’ at the end of clause (x); and

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

‘‘(XV) who are employed individuals with a medically improved disability described in subsection (f) or (g) who are at least 16, but less than 65, years of age;’’.
to a family of the size involved, except that in the case of an individual who has income (A) by striking the period at the end of paragraph (19) and inserting ‘‘: or’’;
(B) by inserting after such paragraph the following new paragraph:
‘‘(20) with respect to amounts expended for medical assistance provided to an individual described in subsection (XV) or (XVI) of section 1902(a)(10)(A)(ii) for a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the level of State funds expended for such fiscal year for programs to enable working individuals with disabilities to work (other than for such medical assistance) is not less than the level expended for such programs during the most recent State fiscal year ending before the date of the enactment of this paragraph’’;
(C) the degree to which States are subsidizing premiums above the dollar amount specified in section 1902(a)(10)(A)(ii)( XIV ) of the Social Security Act (42 U.S.C. 1396o(q)(2)); and
(D) the extent to which there exists any crossed reimbursement between (XV) or (XVI) of section 1902(a)(10)(A)(ii).

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2009.

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

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 2009.

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

(1) examines the effectiveness and cost of the Federal share of such expenditures by the States described in subsection (a); and

(2) examines the necessity and effectiveness of providing continuing medical assistance under section 226(b) of the Social Security Act (42 U.S.C. 426b) to individuals whose annual income exceeds the contribution and benefit base (as determined under section 239 of such Act (42 U.S.C. 430));

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

(4) examines the viability of providing the continuation of medical coverage under such section 226(b) based on a premium buy-in by the State for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii); and

(5) determines whether such State has elected to provide medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) if the State has elected to provide medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) shall receive a grant in an amount equal to the amount that would have been awarded to such State if the State had elected to provide medical assistance under such title but that has not elected to provide medical assistance under such title.

(d) ANNUAL REPORT.—A State that is awarded a grant under this section shall submit an annual report to the Congress regarding the amendment made by this section.

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

(a) ESTABLISHMENT.—

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

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

(b) FORMULA.—(1) IN GENERAL.—Subject to subsection (C), no State with an approved application under this section shall receive a grant for a fiscal year that is less than $500,000.

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

(c) GRANTS FOR INFRASTRUCTURE AND OUT-REACH.—

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

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

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

(2) ELIGIBILITY FOR GRANTS.—

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

(B) DEFINITIONS.—In this section—

(i) EMPLOYED.—‘‘The term ‘employed’ means—

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

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

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

(d) ANNUAL REPORT.—A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of
(A) APPROPRIATION.—The appropriation shall be in two equal annual installments—

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

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

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

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

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

(1) that provided under section 1905(a) of the Social Security Act (42 U.S.C. 1396a(a)) to individuals described in section 1962(a)(10)(A)(iv)(I) of that Act (42 U.S.C. 1396a(a)(10)(A)(iv)(I)(XIII)); or

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

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

1. In GENERAL.—The term “worker with a potentially severely disability” means, with respect to a demonstration project, an individual who—

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

(B) has a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected, but for such impairments and services, to result in a determination under section 226, altering the manner in which the provisions of section 222(c), altering the 24-month waiting period for hospital insurance benefits under section 223, including such methods as a reduction in benefits based on earnings, determining the relative advantages and disadvantages of—

1. various alternative methods of treating workers with a potentially severe disability as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(i) as of the date of such loss of coverage if the holder provides notice of loss of such coverage within 90 days after the date of such loss; or

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

TITLE III—DEMONSTRATION PROJECTS AND STUDIES

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

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

“DEMONSTRATION PROJECT AUTHORITY

SEC. 234. (a) AUTHORITY.—

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

1. various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 222(b) and is covered under a group health plan, such policies shall be automatically reinstated (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(i) as of the date of such loss of coverage if the holder provides notice of loss of such coverage within 90 days after the date of such loss; or

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

TITLE III—DEMONSTRATION PROJECTS AND STUDIES

SEC. 301. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.
greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation; and

(2) implementing sliding scale benefit offsets using variations in—

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

(ii) the duration of the offset period; and

(iii) the method of determining the amount of income earned by such individuals, to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this title.

(2) EXPANSION OF SCOPE.—The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this title with impairments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

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

(2) AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.—In the case of any experiment or demonstration project conducted under subsection (a), the Commissioner may waive compliance with the benefits requirements of this title under the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration.

No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete presentation of findings that has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law to carry out the objectives stated in subsection (a).

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

(2) TERMINATION AND FINAL REPORT.—The Commissioner shall terminate the demonstration project carried out under this subsection 5 years after the date of the enactment of this Act, and annually thereafter, the Commissioner of Social Security shall submit to the Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.

(c) EXPENDITURES.—Expenditures made for demonstration projects under this section shall be credited to 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 the Secretary of the Treasury, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in appropriation Acts.

SEC. 302. DEMONSTRATION PROJECTS PROVIDING REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON WORK EXPERIENCE

(a) AUTHORITY.—The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 222(k)(3) of the Social Security Act under which benefits payable under section 222 of such Act, or under section 202 of such Act based on the beneficiary’s disability, are reduced by $1 for each $2 of the beneficiary’s earnings that is above a level to be determined by the Commissioner.

Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of the implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

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

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

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

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

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

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

(2) ADJUSTMENTS.—The Commissioner shall also determine with respect to each project—

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

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

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

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

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

When appropriate, such reports shall include detailed recommendations for changes in administration or law to carry out the objectives stated in subsection (a).

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

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

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

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Commissioner shall submit a written report presenting the results of the Commissioner’s study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, together with recommendations for legislative or administrative
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changes as the Comptroller General determines are appropriate; and (B) study by General Accounting Office of existing coordination of the DI and SSI programs as they relate to individuals entering or leaving concurrent entitlement—

(1) Study.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act (42 U.S.C. 410 et seq.) and the supplemental security income program under title XVI of such Act (42 U.S.C. 1381 et seq.), as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq., 1396 et seq.).

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

(c) Study by General Accounting Office of the Impact of the Substantial Gainful Activity Limit on Return to Work.—

(1) Study.—As soon as practicable after the date of the enactment of this Act, the Comptroller General shall undertake a study of the substantial gainful activity level applicable as of that date to recipients of benefits under section 223 of the Social Security Act (42 U.S.C. 1382a(b)(7)) (relating to grants, scholarships, or fellowships received for use in paying the cost of tuition and fees at any educational institution or for paying the cost of room and board at any such institution).

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

TITLE IV—MISCONSEQUENTIAL AND TECHNICAL AMENDMENTS

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

(a) Clarification Relating to the Effective Date of Title II Benefits for Drug Addicts and Alcoholics.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended—

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

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

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

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

“(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court order with respect to an individual under an agreement entered into under section 1611(f)(1)(I).

(b) Correction to Effective Date of Provisions Concerning Representative Payees and Treatment Referrals of Social Security Beneficiaries Who Are Drug Addicts and Alcoholics.—Section 105(a)(5)(B) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended to read as follows:

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

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

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

(c) Effective Dates.—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 852 et seq.).
as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II).

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

(2) CONFORMING AMENDMENTS TO THE PRIVACY ACT.—Section 522(a)(8)(B) of title 5, United States Code, is amended—

(A) in clause (vi), by striking "or" at the end;
(B) in clause (vii), by adding "or" at the end; and
(C) by adding at the end the following new clause: "(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(c)(3), 1328c(e)(1))."

(3) CONFORMING AMENDMENTS TO TITLE XVI.—

(A) Section 1611(e)(1)(i)(I) of the Social Security Act (42 U.S.C. 1328c(e)(1)(i)(I)(i)) is amended by striking "and" and inserting "and the other provisions of this title and":

(B) Section 1611(e)(1)(i)(ii)(I) of such Act (42 U.S.C. 1328c(e)(1)(i)(ii)(I)(i)) is amended by striking "involves" and inserting "shall maintain, and shall provide on a reimbursable basis,".

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

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

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

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

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

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

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

(2) CONFORMING AMENDMENT.—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking "clause (i)(II)", and in (ii), by striking "clause (ii)(I)," and inserting "clauses (ii) and (iii)".

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

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

(a) In General.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, for any amount which has been received under section 1402(e)(1) of such Code by a clergy member of a church, a member of a religious order, or a Christian Science practitioner, which is effective for the taxable year in which such Code is enacted, is exempt from the above-mentioned provisions, except that in the case of earnings from self-employment in the case of deaths occurring in or after such calendar year.

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

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

(a) In General.—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking "title XVI" and inserting "title II and XVI".

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

SEC. 405. AUTHORIZATION FOR STATE TO PERMIT ANNUAL WAGE LIMIT FOR CERTAIN INDIVIDUALS.

(a) In General.—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended by inserting in such section the following: "(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reports required to be submitted on and after the date of the enactment of this Act.

SEC. 406. ASSESSMENT OF ATTORNEYS WHO NEGLECT THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.

(a) ASSESSMENT ON ATTORNEYS.—Section 1121 of the Social Security Act (42 U.S.C. 1382b(a)(3)) is amended by striking "(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reports required to be submitted on and after the date of the enactment of this Act.

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

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

(1) by striking "(as defined in section 453A(a)(2)(B)(ii))";

(2) by inserting "(as defined in section 453A(a)(2)(B))" after "employers";

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

SEC. 406. ASSESSMENT OF ATTORNEYS WHO NEGLECT THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.

(a) ASSESSMENT ON ATTORNEYS.—Section 1121 of the Social Security Act (42 U.S.C. 1382b(a)(3)) is amended by striking "(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reports required to be submitted on and after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to reports submitted on and after the date of the enactment of this Act.

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

(1) by striking "(as defined in section 453A(a)(2)(B)(ii))";

(2) by inserting "(as defined in section 453A(a)(2)(B))" after "employers";

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

SEC. 406. ASSESSMENT OF ATTORNEYS WHO NEGLECT THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.

(a) ASSESSMENT ON ATTORNEYS.—Section 1121 of the Social Security Act (42 U.S.C. 1382b(a)(3)) is amended by striking "(c) EFFECTIVE DATE.—The amendments made by this section shall apply to reports required to be submitted on and after the date of the enactment of this Act.

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

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

(1) by striking "(as defined in section 453A(a)(2)(B)(ii))";

(2) by inserting "(as defined in section 453A(a)(2)(B))" after "employers";

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

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

(B) The percentage specified in this subparagraph is—

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

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

(3) COLLECTION.—The Commissioner may collect the assessment imposed on an attorney under paragraph (1) by offset from the amount of the fee otherwise required by subsection (a)(4) or (b)(1) to be certified for payment to the attorney from a claimant’s past-due benefits.

(4) PROHIBITION ON CLAIMANT REIMBURSEMENT.—Subject to subsection (d) of this section, subsection (a)(4) of section 206(a) and subparagraph (B) of section 206(d) shall not apply to attorneys required under section 206(d) of such Act (42 U.S.C. 406(d)) (as added by subsection (a)(4)) to provide representation to claimants.

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

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

(2) CONFORMING AMENDMENTS.—

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

(B) Section 206(b)(1)(A) of such Act (42 U.S.C. 406(b)(1)(A)) is amended by inserting “or under any Federal health care program (including the State plan under this title)” after the period in subsection (d) of such Act (42 U.S.C. 406(d)).

(3) ELIMINATION OF 15-DAY WAITING PERIOD FOR PAYMENT OF FEES.—Section 206(a)(4)(A) shall be amended—

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

(2) by striking “paragraph (B)’’ and “’’;

(3) by striking subparagraph (B).

(c) GAO STUDY AND REPORT.—

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

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

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

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

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

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

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

(G) determines whether the assessment on attorneys required under section 206(d) of such Act (42 U.S.C. 406(d)) (as added by subsection (a)(4)) should be applied to legal representation for claimants.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1), including the costs of determining fees to attorneys required under section 206(d) of such Act (42 U.S.C. 406(d)) (as added by subsection (a)(4)) to provide representation to claimants.

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

SEC. 408. CLIMATE DATABASE MODERNIZATION.

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NOAA’s solicitation for assessment of the National Oceanic and Atmospheric Administration’s requirements for a National Ocean Data Network.

SEC. 409. SPECIAL ALLOWANCE ADJUSTMENT FOR STUDENT LOANS.

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

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

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

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

(4) in the heading of subparagraph (D), by striking “July 1, 2001” and inserting “January 1, 2002”;

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

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

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

“(ii) by adding 2.34 percent to the resultant percentage;

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

“(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement was made on or after January 1, 2000, and before July 1, 2003, for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting ‘1.74 percent’ for ‘2.34 percent’.

“(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and for which the applicable rate of interest is described in section 427A(k), clause (i)(III) of
(b) The Cash Management Improvement Act of 1990 shall not apply to payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

(2) by adding at the end of subsection (b)(3) the following new paragraph:

"(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under section 1616(d) of the Social Security Act, or under section 121 of title XVI of the Social Security Act, may charge States a fee for the month in which the date of the agreement has been modified to reflect such payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act no later than—

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

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

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

"(2) AMENDMENT TO SECTION 212.—Section 212 of the Income Security Act of 1965 (20 U.S.C. 1087e(b)(2)) as added by subsection (b) of this section shall be amended—

"(A) by striking ''at such time and in such installments as may be agreed upon between the Commissioner and the State'' and inserting ''in accordance with subparagraph (E)(ii)'';

"(b) EFFECTIVE DATE.—Subparagraph (I) of section 1212(c)(1)(A) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended—

"(1) by adding a new subsection (c) to read as follows:

"(c) In general.—Subsection (a) of section 1212(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended—

"(2) by inserting a new paragraph (B) to read as follows:

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

"(3) by adding at the end the following:

"(B) the tentative minimum tax for the taxable year in which the payment is required to be made or for any other taxable year, whichever is later.

"(2) SPECIAL RULE FOR 2000 AND 2001.—For purposes of any taxable year beginning during the calendar year 2000 and before January 1, 2001, and before July 1, 2003, for any taxable year after December 31, 1999, the Commissioner may make supplementary payments on behalf of a State with funds appropriated for supplemental security income benefits under title XVI of the Social Security Act, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payments when required by subparagraph (A)(i) are determined by the Commissioner to exist.

"(3) by adding at the end the following:

"(B) the tentative minimum tax for the taxable year in which the payment is required to be made or for any other taxable year, whichever is later.

"(2) SPECIAL RULE FOR 2000 AND 2001.—For purposes of any taxable year beginning during the calendar year 2000 and before January 1, 2001, and before July 1, 2003, for any taxable year after December 31, 1999, the Commissioner may make supplementary payments on behalf of a State with funds appropriated for supplemental security income benefits under title XVI of the Social Security Act, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payments when required by subparagraph (A)(i) are determined by the Commissioner to exist.
corresponding sentence, subsection (a) shall be applied to the number of months in such taxable year. 
(B) waiver of estimated tax penalties. 
(1) no addition to tax shall be made under section 6654 or 6655 of such code for any period before july 1, 1999, with respect to any underpayment of tax imposed by such code to the extent such underpayment was created or increased by reason of subparagraph (a).

(3) Effective date. The amendments made by this subsection shall apply to amounts paid or incurred after june 30, 1999.

(4) Extension of research credit to renewable energy resources. 
(a) extension and modification of credit for producing electricity from certain renewable resources. 
(2) extension of research credit to renewable energy resources. 
(b) extension and modification of credit for producing electricity from certain renewable resources.

(c) Special rules. 
(1) in general. 
A. Section 35(c)(10) and (45(h)(9) of the internal revenue code of 1986 (relating to application) are each amended— 
(1) by striking "the first taxable year" and inserting "taxable years".

(2) by striking "January 1, 2000" and inserting "January 1, 2001", and

(3) by striking "within which such" and inserting "within which such".

(2) Technical amendment. 
(1) Section 35(c)(3) of such Code is amended by adding at the end the following new sentence: "If this subsection does not apply to a taxable year (relating to temporary suspension of taxable limit with respect to (marginal production) is amended by striking "January 1, 2000" and inserting "January 1, 2002.

(b) Effective date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 505. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT. 
(a) TEMPORARY EXTENSION. 
(1) Sections 35(c)(10) and (51) of the internal revenue code of 1986 (relating to termination) are each amended by striking "June 30, 2000" and inserting "June 30, 2001." 

(c) EFFECTIVE DATE. The amendments made by this subsection shall apply to individuals who begin work for the employer after june 30, 1999.

SEC. 506. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE. 
(a) in general. 
(1) Section 45(h)(10) and (51) of the internal revenue code of 1986 (relating to certification) is amended by striking "June 30, 1999" and inserting "June 30, 2000.

(b) increase in percentages under alternative incremental credit. 
(1) in general. 
A. Section 35(c)(10) of such Code is amended— 
(1) by striking "1.65 percent" and inserting "2.65 percent.

(2) by striking "2.2 percent" and inserting "3.2 percent.

(c) Effective date. The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(2) Denial of double benefit. 
Section 280C(c)(1) of such code is amended by inserting "or credit" after "deduction" each place it appears.

(3) Effective date. The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(4) extension of research credit to research in puerto rico and the possessions of the united states. 
(1) in general. 
A. Sections 35(c)(6) and (45)(h)(9) of such Code (relating to research) are each amended by inserting "the commonwealth of puerto rico, or any possession of the united states" after "united states".

(2) Denial of double benefit. 
Section 280C(c)(1) of such Code is amended by inserting "or credit" after "deduction" each place it appears.

(3) Effective date. The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(4) Special rule. 
(1) in general. 
A. Sections 35(c)(6) and (45)(h)(9) of such Code (relating to research) are each amended— 

(2) by striking "January 1, 2000" and inserting "January 1, 2001", and

(3) by striking "within which such" and inserting "within which such".

(2) Technical amendment. 
(1) Section 35(c)(6) of such Code is amended by adding after the end of such section the following new sentence: "If this subsection does not apply to a taxable year (relating to temporary suspension of taxable limit with respect to (marginal production) is amended by striking "January 1, 2000" and inserting "January 1, 2002.

(b) Effective date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 507. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES. 
(a) extension and modification of placed-in-service rules. 
(1) in general. 
A. Section 35(c)(6) of such Code (relating to temporary suspension of taxable limit with respect to (marginal production) is amended by striking "January 1, 2000" and inserting "January 1, 2002".

(b) Denial of double benefit. 
Section 280C(c)(1) of such Code is amended by inserting "or credit" after "deduction" each place it appears.

(3) Effective date. The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(4) Special rule. 
(1) in general. 
A. Sections 35(c)(6) and (45)(h)(9) of such Code (relating to research) are each amended— 

(2) by striking "January 1, 2000" and inserting "January 1, 2001", and

(3) by striking "within which such" and inserting "within which such".

(2) Technical amendment. 
(1) Section 35(c)(6) of such Code is amended by adding after the end of such section the following new sentence: "If this subsection does not apply to a taxable year (relating to temporary suspension of taxable limit with respect to (marginal production) is amended by striking "January 1, 2000" and inserting "January 1, 2002.

(b) Effective date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 508. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION. 
(a) in general. 
(1) Section 613A(c)(6) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable limit with respect to (marginal production) is amended by striking "January 1, 2000" and inserting "January 1, 2002.

(b) Effective date. The amendments made by this section shall apply to taxable years beginning after December 31, 1999.
credit under subsection (a) is the lessee or the operator of such facility.

(7) CREDIT NOT TO APPLY TO ELECTRICITY SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.—

(A) IN GENERAL.—The credit determined under subsection (a) shall not apply to electricity—

(i) produced at a qualified facility described in paragraph (3)(A) which is placed in service by the taxpayer after June 30, 1999, and

(ii) sold to a utility pursuant to a contract originally entered into before January 1, 1987 (whether or not amended or restated after that date).

(B) EXCEPTION.—Subparagraph (A) shall not apply if—

(i) the prices for energy and capacity from such facility are established pursuant to an amendment to the contract referred to in subparagraph (A)(ii),

(ii) such amendment provides that the prices set forth in the contract which exceed avoided cost prices determined at the time of delivery shall apply only to annual quantities of electricity (prorated for partial years) which do not exceed the greater of—

(I) the average annual quantity of electricity sold to the utility under the contract during calendar years 1996, 1997, and 1998, or

(II) the covered annual electricity production set forth in the contract, or, if there is no such estimate, the greatest annual quantity of electricity sold to the utility under the contract in any of the calendar years 1996, 1997, or 1998, and

(iii) such amendment provides that energy and capacity in excess of the limitation in clause (i) above—

(I) sold to the utility only at prices that do not exceed avoided cost prices determined at the time of delivery, or

(II) sold to a third party subject to a mutually agreed upon advance notice to the utility. For purposes of this subparagraph, avoided cost prices shall be determined as provided for in section 482(f) of the Internal Revenue Code of 1986.

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

SEC. 506. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF LIQUIDATIONS AND REQUISITIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), any entry—

(i) of an article to which duty-free treatment under title V of the Tariff Act of 1974 would have applied if such entry had been made on July 1, 1999, and such title had been in effect on July 1, 1999, and

(ii) that was made—

(I) after June 30, 1999, and

(II) before the date of enactment of this Act, shall be liquidated or requisiptioned as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—As used in this paragraph, the term “entry” includes a withdrawal from warehousing for consumption.

(2) REQUESTS.—Liquidation or requisiption may be made under paragraph (2) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry, or

(B) to reconstruct the entry if it cannot be located.

SEC. 509. EXTENSION OF CREDIT FOR HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.—

(A) IN GENERAL.—Section 1397E(e)(4)(A) of the Internal Revenue Code of 1986 (relating to national limitation) is amended by striking “(a)” and inserting “(b).”

(B) LIMITATION ON CARRYOVER PERIODS.—Paragraph (4) of section 1397E(e) of such Code is amended by adding at the end the following flush sentence:

“Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in-first-out basis.”

SEC. 510. EXTENSION OF FIRST-TIME HOME-OWNER CREDIT FOR DISTRICT OF COLUMBIA.

Section 1900C(i)(1) of the Internal Revenue Code of 1986 is amended by striking “2001” and inserting “2002”.

SEC. 511. EXTENSION OF EXPENDING OF ENVIRONMENTAL REMEDIATION COSTS.

Section 190(b) of the Internal Revenue Code of 1986 is amended by striking “2000” and inserting “2001”.

SEC. 512. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(A) IN GENERAL.—Section 7652(1)(A) of the Internal Revenue Code of 1986 (relating to limitation on cover over of tax on distilled spirits) is amended by striking “2002”.

(B) SPECIAL COVER OVER TRANSFER RULES.—Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before October 1, 2000, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a):

(I) INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.—The Secretary of the Treasury shall, within 15 days after the date of enactment of this Act, transfer an amount equal to the lesser of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before January 1, 2002; and

(B) $20,000,000.

(II) TRANSFER OF INCREMENTAL INCREASE FOR FISCAL YEAR 2001.—The Secretary of the Treasury shall, on October 1, 2000, transfer an amount equal to the excess of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before October 1, 2000; and

(B) the amount of the transfer described in paragraph (I),

over—

(A) any carryover of a limitation amount that was carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in-first-out basis.

(B) $20,000,000.

(C) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1999.

Subtitle B—Other Time-Sensitive Provisions

SEC. 521. ADVANCE PRICING AGREEMENTS TREATED AS CONFIDENTIAL TAX RETURN INFORMATION.

(A) IN GENERAL.—

(1) TREATMENT AS RETURN INFORMATION.—Paragraph (2) of section 6108(b) of the Internal Revenue Code of 1986 (relating to the confidentiality of advance pricing agreements) is amended by striking “and” at the end of subparagraph (A), by inserting “and” at the end of paragraph (B), and by inserting after subparagraph (B) the following new subparagraph (C):—

“(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”.

(2) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Paragraph (1) of section 6110(b) of such Code (defining written determination) is amended by adding at the end the following new sentence: “Such term shall include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS.—

(1) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

(C) THE NUMBER OF—

(i) applications filed during such calendar year for advance pricing agreements;

(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

(iii) renewals of advance pricing agreements issued;

(iv) pending requests for advance pricing agreements;

(v) pending renewals of advance pricing agreements;

(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

(viii) advance pricing agreements finalized or renewed by industry.

(D) GENERAL DESCRIPTIONS OF—

(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

(ii) the covered transactions and the functions performed and risks assumed by such organizations, trades, or businesses;

(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

(v) critical assumptions made and sources of comparables used;

(vi) comparable selection criteria and the rationale used in determining such criteria;

(vii) the nature of adjustments to comparables or tested parties;

(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparable range.

The Secretary shall prepare and publish a report regarding advance pricing agreements.
SEC. 511. MODIFICATION OF ESTIMATED TAX REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

(a) In General.—In the case of a taxpayer determining the Secretary of the Treasury (or the Secretary's delegate) to be affected by a Y2K malfunction, the Secretary may disregard a period of up to 90 days in determining, under the Internal Revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(4) of the Internal Revenue Code of 1986 (relating to exceptions to the exception in subparagraphs (A) and (B) of section 2600(b)(1), of the Internal Revenue Code of 1986, as added by section 17 of title II of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999), and the last sentence of section 2600(b)(1), of the Internal Revenue Code of 1986, as added by that section, shall apply;

(2) the amount of any credit or refund;

(b) Applicability of Certain Rules.—For purposes of this section, rules similar to the rules of subsection (a)(4) and (a)(6) of section 1190(b)(2) of the Internal Revenue Code of 1986 shall apply.

SEC. 539. MODIFICATION OF ELECTION REQUIREMENT FOR HEDGING TRADING OR HEDGING CONTRACTS.

(a) In General.—The table contained in clause (ii) of section 6749(d)(1)(C) of the Internal Revenue Code of 1986 (relating to limitations on use of prepayment of prior year's tax) is amended by striking the items relating to 1999 and 2000 and inserting the following new items:

``
1999 .................................................. 108.6
2000 .................................................. 110.6
``

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

SEC. 542. CLARIFICATION OF TAX TREATMENT OF HEDGING TRADE OR HEDGING CONTRACTS.

(a) In General.—Section 1221 of the Internal Revenue Code of 1986 (defining capital assets) is amended—

(1) by striking "(5)(A)" and inserting "(5)(B)";

(b) Definitions and Special Rules.—

(1) Definitions.—(A) Commodity Derivatives Dealer.—The term 'commodity derivatives dealer' means a person which regularly offers to enter into, assume, offset, assign, or terminate positions in commodities derivative financial instruments with customers in the ordinary course of a trade or business. (B) Commodity Derivative Financial Instrument.—The term 'commodity derivative financial instrument' means any contract or financial instrument with respect to commodities (other than a share or portion of stock in a corporation, a beneficial interest in a partnership or trust, a note, bond, debenture, or other evidence of indebtedness, or a section 1256 contract (as defined in section 1256(b)(6)), the value or liquidation price of which is calculated by or determined by reference to a specified index. (ii) Specified Index.—The term 'specified index' means any one or more or any combination of the:

(I) a fixed rate, price, or amount, or

(II) a variable rate, price, or amount, which is based on any commodity, any commodity derivative financial instrument, or any financial instrument, and is not unique to any of the parties' circumstances.

(2) Hedging Transaction.—

(a) In General.—For purposes of this section, the term 'hedging transaction' means an transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

(i) to manage price changes or currency fluctuations with respect to ordinary property which is held or to be held by the taxpayer;

(ii) to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer;

(iii) to manage such other risks as the Secretary shall prescribe in regulations.

(b) Treatment of Nonidentification or Improper Identification of Hedging Transactions.—Notwithstanding subsection (a)(7), the Secretary shall properly characterize any transaction to properly characterize any income, gain, expense, or loss arising from a transaction—

(i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or

(ii) which was so identified but is not a hedging transaction.

(c) Regulations.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of this subsection.
ed by striking 'section 1221(4)' and inserting 'section 1221(a)(1)'.

Section 1234(a)(3)(A).

Section 1259 the following new section:

(a) IN GENERAL.—If any gain is treated as ordinary income for any taxable year by reason of subsection (a)(1), the tax imposed by this chapter shall apply to any instrument

(b) INTEREST CHARGE ON DEFERRAL OF GAIN RECOGNITION.—

1. The amendments made by this section (and also by section 1221(a)(4)) which would apply to a debt instrument after the date of the enactment of this Act.

2. Parliamentarily entered into, and supplies held or acquired on or after the date of the enactment of this Act.

3. If the taxpayer has gain recognized under the provisions of paragraph (2), the applicable Federal rate with respect to a prior taxable year is the amount of interest determined under this paragraph with respect to each prior taxable year during any portion of which the constructive ownership transaction was open.

4. Paragraph (2) with respect to each prior taxable year is the amount of interest determined under this paragraph with respect to a prior taxable year is the amount of interest which would have been imposed under section 6601 (determined by treating the income as accruing at a constant rate equal to the applicable Federal rate as in effect on the day the transaction closed). The period during which such interest shall accrue shall end on the due date (without extensions) for the return of tax imposed by this chapter for the taxable year in which such transaction closed.

(3) APPLICABLE FEDERAL RATE.—For purposes of this section, in the case of any constructive ownership transaction which is closed by reason of prescribed by the Secretary, enters into one or more other positions which are part of such transaction are marked to market under any provision of this title or the regulations thereunder.

(4) FORWARD CONTRACT.—The term 'forward contract' means any contract to provide or receive credit for the future value of any financial asset.

(c) Financial Asset.—For purposes of this section—

(1) the amount of any credit allowable under this chapter, or

(2) the amount of the tax imposed by section 55.

(c) Financial Asset.—For purposes of this section—

(1) in general.—The term 'financial asset' means—

(2) A regulated investment company,

(3) A real estate investment trust,

(4) A corporation,

(5) A partnership, and

(6) A trust.

(2) PASS-THRU ENTITY.—For purposes of paragraph (1), the term 'pass-thru entity' means—

(1) a trustee,

(2) a common trust fund,

(3) a foreign personal holding company,

(4) a foreign investment company (as defined in section 1297 without regard to subsection (e) thereof),

(5) a personal holding company,

(6) a corporation, and

(7) a partnership.

(2) to permit taxpayers to mark to market constructive ownership transactions in lieu of applying this section, and

4. (D) to the extent provided in regulations prescribed by the Secretary, a holder of a call option, and is the grantor of a put option, with respect to the financial asset and such options have substantially equal strike prices and substantially contem-
Sec. 1260. Gains from constructive ownership of life insurance, split-dollar life insurance, and charitable remainder annuity trusts

(a) Extension.—(1) In general.—Paragraph (3) of section 420(b) of the Internal Revenue Code of 1986 (relating to the installment method) is amended by adding at the end the following new paragraph:

(3) (C) Election to compute cost separately.—If any person possesses a charitable remainder annuity trust or charitable remainder unitrust, the term ‘applicable employer cost’ means, with respect to any taxable year, the amount determined by dividing—

(i) the number of individuals to whom coverage is provided by the qualified transfer, by the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year,

(ii) such trust is entitled to all the payments under an arrangement described in subparagraph (A) (as defined in section 503(f)(4)), and

(iii) such organization possesses all of the incidents of ownership under such contract.

(b) Application of Minimum Cost Requirements.—(1) In general.—Paragraph (3) of section 420(c) of the Internal Revenue Code of 1986 is amended to read as follows:

(A) Minimum cost requirements.—(A) Extension.—(1) In general.—The requirements of this section are met if each group health plan or health insurance arrangement described in subparagraph (A) or (B) of subsection (c) is treated as a group health plan or arrangement under such subparagraph for purposes of this subsection.

(b) Application of Minimum Cost Requirements.—(1) In general.—Paragraph (1)(B) of section 170(a) is amended by adding at the end the following sentence:

"(ii) such organization possesses all of the incidents of ownership under such contract."
to any premium shall file an annual return which shall—
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“[A] LIMITED RENTAL EXCEPTION.—The requirement of this subparagraph shall not apply to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1)) without regard to paragraph (2)(B) from such property are substantially comparable to such rents made by the other tenants of the trust’s property for comparable use.”

“(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility leased to the trust by a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

“(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

“(A) IN GENERAL.—The term ‘eligible independent contractor’ means an independent contractor who, with respect to any qualified lodging facility, is actively engaged in the trade or business of operating qualified lodging facilities for any person who is related to such independent contractor with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) SPECIAL RULES.—For purposes of this paragraph—

“(i) the term ‘eligible independent contractor’ includes an independent contractor who is related to such independent contractor with respect to any qualified lodging facility by reason of any of the following:

“(I) that such independent contractor is a related person with respect to the real estate investment trust or the taxable REIT subsidiary;

“(II) that such independent contractor has a lease with respect to the real estate investment trust or the taxable REIT subsidiary;

“(ii) the term ‘eligible independent contractor’ includes a taxable REIT subsidiary that enters into a management agreement or other similar service contract with a taxable REIT subsidiary or a related person with respect to such taxable REIT subsidiary.

“(B) TAXABLE REIT SUBSIDIARY.—For purposes of this paragraph, the taxable REIT subsidiary includes a taxable REIT subsidiary of a real estate investment trust if such taxable REIT subsidiary owns or operates any hotel, motel, or other lodging facility that is not a part of another lodging facility.

“(C) RENTALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(i)—

“(i) a lease shall be treated as if it were entered into by a taxable REIT subsidiary on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on the date such lease was entered into.

“(ii) a lease shall be treated as if it were entered into by a taxable REIT subsidiary on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on the date such lease was entered into.

“(i) the term ‘qualified lodging facility’ means any lodging facility unless warranted by the facts and circumstances.

“(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

“(i) the term ‘qualified lodging facility’ means any lodging facility unless warranted by the facts and circumstances.

“(B) IN GENERAL.—The term ‘taxable REIT subsidiary’ means a taxable REIT subsidiary of a real estate investment trust or the taxable REIT subsidiary of a trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

“(C) EXCEPT FOR CERTAIN SERVICES.—Clause (i) shall not apply to any real estate investment trust or the taxable REIT subsidiary of a trust for services described in paragraph (1)(B), (7)(C)(i), or (7)(C)(ii) of section 856(d).

“(D) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any real estate investment trust or the taxable REIT subsidiary of a trust for services described in paragraph (1)(B), (7)(C)(i), or (7)(C)(ii) of section 856(d).
service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust—

(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust and the amount of such services rendered is unrelated (within the meaning of section 856(d)(3)(F)) to such subsidiary, trust, and tenants;

(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

(4) TRANSITIONAL RULES RELATED TO SECTION 541.—Subparagraph (E) of section 541 shall not apply to a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust's property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary;

(II) the charge for such service from such subsidiary is separately stated.

(5) EXCEPTION FOR CERTAIN SERVICES BASED ON USE OF SPACE IN THE TRUST'S PROPERTY.—Subparagraph (E) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary's direct cost in furnishing or rendering the service.

(6) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms' length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

(7) REDETERMINED DEDUCTIONS.—The term 'redetermined deductions' means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on disallowance of such deductions as follows—

(A) in the case of any deduction that is claimed by a taxable REIT subsidiary of a real estate investment trust, the amount to which such deduction is decreased shall be reduced by the excess of the amount of the deduction claimed by such subsidiary over the amount of such deduction that is decreased by reason of paragraph (1), subparagraph (A), or subparagraph (B) of section 482.

(B) in the case of any deduction that is claimed by a real estate investment trust that is treated as a taxable REIT subsidiary of another taxable REIT subsidiary (but for subparagraph (E)), the amount to which such deduction is decreased shall be reduced by the excess of the amount of the deduction claimed by such trust over the amount of such deduction that is decreased by reason of paragraph (2), subparagraph (A), or subparagraph (B) of section 482.

(8) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or advisable to carry out the purposes of this section.
percent in the case of taxable years beginning before January 1, 1980)" and inserting "90 per-
(c) EFFECTIVE DATE.—The amendments made
by this section shall apply to taxable years begin-
ing after December 31, 2000.
Subpart D—Clarification of Exception From
Impermissible Tenant Service Income
SEC. 561. CLARIFICATION OF EXCEPTION FOR
INDEPENDENT OPERATORS.
(a) In paragraph (3) of section 856(d) of the Internal Revenue Code of 1986 (re-
lating to independent contractor defined) is
amended by adding at the end the following
flush sentence:
"In the event that any class of stock of either
the real estate investment trust or such person
is regularly traded on an established securities
market, only persons who own, directly or indi-
directly, more than 5 percent of such class of
stock shall be taken into account as owning any of
the stock of such class for purposes of applying
the 35 percent ownership requirement set forth in subpar-
graph (B) (but all of the outstanding stock of
such class shall be considered outstanding in
order to compute the denominator for purpose of
determining the applicable percentage of owner-
ship)."
(b) EFFECTIVE DATE.—The amendment
made by this section shall apply to taxable years be-
ing after December 31, 2000.
Subpart E—Modification of Earnings and
Profits Rules
SEC. 566. MODIFICATION OF EARNINGS AND
PROFITS RULES.
(a) RULES FOR DETERMINING WHETHER REGU-
LATED INVESTMENT COMPANY HAS EARNINGS
AND PROFITS FROM NON-RIC YEAR.—
(1) IN GENERAL.—Subsection (c) of section 852
of the Internal Revenue Code of 1986 is amended
by adding at the end the following new para-
graph:
"(3) DISTRIBUTIONS TO MEET REQUIREMENTS
OF SUBSECTION (A)(2)(B).—Any distribution
which is made in order to comply with the re-
quirements of subsection (a)(2)(B)—
"(A) shall be treated for purposes of this sub-
section and subsection (a)(2)(B) as made from
earnings and profits which, but for the distribu-
tion, would result in a failure to meet such re-
quirements (and allocated to such earnings on a
first-in, first-out basis), and"
"(B) to the extent treated under subparagraph
(A) as made from accumulated earnings and profits,
shall not be treated as a distribution for
purposes of subsection (b)(2)(D) and section
855.
"(2) CONFORMING AMENDMENT.—Subpara-
graph (A) of section 857(d)(3) of such Code is amended
to read as follows:
"(A) shall be treated for purposes of this sub-
section and subsection (a)(2)(B) as made from
earnings and profits which, but for the distribution,
would result in a failure to meet such require-
ments (and allocated to such earnings on a
first-in, first-out basis), and";
(b) CLARIFICATION OF APPLICATION OF REIT
SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS
TO MEET QUALIFICATION REQUIREMENT.—Sub-
paragraph (a) of section 857(d)(3) of such Code is
amended by inserting before the period "and
section 858";
(c) APPLICATION OF DEFICIENCY DIVIDEND
PROCEDURE OF SECTION 857.—Paragraph (1) of section 858(d)
of such Code is amended by adding at the end the
following new sentence: "If the determination
under subparagraph (A) is solely as a result of the
failure to meet the requirements of sub-
section (a)(2), the preceding sentence shall also
apply for purposes of applying subsection (a)(2)
the non-RIC year and the amount referred to in
paragraph (2)(A)(ii) shall be the portion of the
accumulated earnings and profits which resulted
in such failure.
(d) EFFECTIVE DATE.—The amendments
made by this section shall apply to distributions after
Subpart F—Modification of Estimated Tax
Rules
SEC. 571. MODIFICATION OF ESTIMATED TAX
RULES FOR HELD REAL ESTATE
INVESTMENT TRUSTS.
(a) IN GENERAL.—Subsection (e) of section 655(b) of the Internal Revenue Code of 1986 (relat-
ing to estimated tax by corporations) is amended
by adding at the end the following new para-
graph:
"(5) TREATMENT OF CERTAIN REIT DIVI-
DENDS.—
"(A) IN GENERAL.—Any dividend received
from a closely held real estate investment trust
by any person which owns (after application of
subsections (d)(5) and (l)(3)(B) of section 856) 10
percent or more (by vote or value) of the stock,
or beneficial interests in the trust shall be taken
into account in computing annualized income
installments under paragraph (2) in a manner
similar to the manner under which partnership
income inclusions are taken into account.
"(B) CLOSEDLY HELD REAL ESTATE
INVESTMENT TRUST.—For purposes of
paragraph (A), the term "closely held real estate
investment trust" means a real estate invest-
ment trust with respect to which 5 or fewer per-
sons own (after application of subsections (d)(5)
and (l)(3)(B) of section 856) 50 percent or more
(by vote or value) of the stock or beneficial in-
terests in the trust.
(b) EFFECTIVE DATE.—The amendment
made by subsection (a) shall apply to estimated tax
payments due on or after December 15, 1999.
And the Senate agree to the same.
BILL ARCHER,
DICK ARMY,
Managers on the Part of the House.
TRENT LOTT,
Managers on the Part of the Senate.
J OINT EXPLANATION STATEMENT OF
THE COMMITTEE OF CONFERENCE
The managers on the part of the House and
the Senate at the conference on the dis-
agreeing votes of the two Houses on the amend-
ment of the bill (H.R. 1180) to amend the Social Security Act to ex-
 pand the availability of health care coverage for
working individuals with disabilities, to estab-
lish a Ticket to Work and Self-Suffi-
ciency Program in the Social Security Ad-
ministration to provide such individuals with
meaningful opportunities to work, and
for other purposes, submit the following joint
statement to the House and the Senate in
 explanation of the effect of the action
agreed upon by the managers and rec-
ommended in the accompanying conference
report:
The Senate amendment struck all of the
House bill after the enacting clause and in-
serted a substitute text.
The House recedes from its disagreement
to the amendment of the Senate with an
amendment that is a substitute for the
House bill and the Senate amendment.
The differences between the House bill, the Sen-
ate amendment, and the substitute agreed to
in conference are noted below, except for
clerical corrections, conforming changes
made necessary by agreements reached by
the conferees, and minor drafting and cler-
ical changes.
THE TICKET TO WORK AND WORK
INCENTIVES IMPROVEMENT ACT OF 1999
EXPLANATION OF THE CONFERENCE
AGREEMENT
Short Title
Present law
No provision.
House bill
The "Ticket to Work and Work Incentives
Improvement Act of 1999"
Senate amendment
The "Work Incentives Improvement Act of
1999"
Conference agreement
The Senate recedes to the House.
Long Title
Present law
No provision.
House bill
To amend the Social Security Act to ex-
 pand the availability of health care coverage
for working individuals with disabilities, to
establish a Ticket to Work and Self-Suffi-
ciency Program in the Social Security Ad-
ministration to provide such individuals with
meaningful opportunities to work, and
for other purposes.
Senate amendment
Identical provision.
Conference agreement
The conference agreement follows the House bill and the Senate amendment.
Findings and Purposes
Present law
No provision.
House bill
No provision.
Senate amendment
Makes a number of findings related to the
importance of health care for especially indi-
viduals with disabilities, the difficulties they
often experience in obtaining proper health
care coverage under current program rules,
the resulting limited departures from benefit
rolls due to recipients' fears of losing cov-
erage, and the potential program savings
from providing them better access to cov-
erage if they return to work.
The Senate amendment describes as its
purposes to provide individuals with disabili-
ties: (1) health care and employment prepa-
ration and placement services to reduce their
dependency on cash benefits; (2) Medi-
care coverage (through incentives to States to
allow them to purchase it) needed to
maintain employment; (3) the option of
maintaining Medicare coverage while work-
ing; (4) the option to return to work without
losing Medicaid coverage; (5) the potential to
provide such individuals better access to cov-
erage if they return to work.
Senate amendment
Conference agreement
The House recedes to the Senate with the
modification that additional findings are
added that address employment opportuni-
ties and financial disincentives.
Title I. Ticket to Work and Self-Sufficiency
and Related Provisions
Establishment of the Ticket to Work and Self-
Sufficiency Program
1. Ticket System
Present law
The Commissioner is required to promptly refer
individuals applying for Social Secu-
ritv Disability Insurance (SSDI) or Supple-
mental Security Income (SSI) benefits for
necessarv vocational rehabilitation (VR)
services to State vocational rehabilitation
( VR) agencies. State VR agencies are estab-
lished pursuant to Title I of the Rehabilita-
ion Act of 1973, as amended. A State VR
agency is reimbursed for the costs of VR
services to SSDI and SSI beneficiaries with a
single payment after the beneficiary per-
forms "substantial gainful activity" (i.e.,
The Social Security Administration (SSA) has also established an “alternate participant program” in regulation where private or other nonprofit agencies are eligible to receive reimbursement from SSA for providing VR and related services to SSDI and SSI beneficiaries. To participate in the alternate participant program, a beneficiary must first be referred to, and declined by, a State VR agency. Such private and public agencies are reimbursed according to the same procedures as State VR agencies.

House bill
The House bill creates a Ticket to Work and Self-Sufficiency program. Under the program, the Commissioner of Social Security is authorized to provide SSA and QSDA reimbursed according to the same procedures as State VR agencies.

Employment networks may include both State VR agencies and private and other public providers. Employment networks would be reimbursed from seeking additional compensation from beneficiaries. The bill provides State VR agencies with the option of participating in the program as an employment network or remaining in the current reimbursement system, depending on the option to elect either payment method on a case-by-case basis. Services provided by State VR agencies participating in the program would be governed by plans for VR services approved under Title I of the Rehabilitation Act. The Commissioner would issue regulations regarding the relationship between State VR agencies and other employment networks. It is intended that the agreements would be broad-based, rather than case-by-case agreements. The Commissioner is also required to issue regulations to address other implementation issues, including the extent to which employment networks would be reimbursed.

The bill requires the program to be phased in at sites selected by the Commissioner beginning no later than 1 year after enactment. The Commissioner is required to develop plans for VR services to be fully implemented as soon as practicable, but not later than 3 years after the program begins.

Senate amendment
Similar provision, except adds a section on special requirements applicable to cross-referral of ticket holders to certain State agencies.

Conference agreement
The Senate recedes to the House.

3. Program Managers
Present law
No provision. (See description of present law under “1. Ticket System” above.)

House bill
The Commissioner is required to contract with “ticket managers,” i.e., one or more public or private organizations in the private or public sector with expertise and experience in the field of vocational rehabilitation or employment services, to cooperate with the Commissioner in implementing the program. The Commissioner is required to notify the public and solicit proposals from interested organizations. The Commissioner is required to ensure that these organizations are not controlling, co-financing, or otherwise influencing the delivery of services. The Commissioner is required to enter into agreements with employment networks and beneficiaries.

Senate amendment
Identical provision regarding qualification, requirements, and reporting involving employment networks.

Conference agreement
The Senate recedes to the House.

4. Payment to Employment Networks
Present law
No provision. (See description of present law under “1. Ticket System” above.)

House bill
The bill authorizes payment to employment networks up to 40 percent of the average monthly disability benefit for each month benefits are not payable to the beneficiary due to work, not exceeding 60 months.

Senate amendment
Identical provision regarding qualification, requirements, and reporting involving employment networks.

Conference agreement
The Senate recedes to the House.

5. Evaluation
Present law
No provision. (See description of present law under “1. Ticket System” above.)

House bill
The Commissioner is required to periodically review both payment systems and may alter the percentages, milestones, or payment periods to ensure that employment networks have adequate incentive to assist beneficiaries in entering the workforce. The Commissioner is required to provide reports to Congress with recommendations for methods to adjust payment rates to ensure adequate incentives for the provision of services to individuals with special needs.

Senate amendment
Identical provision, except that the Senate amendment:

Does not require the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to “high risk” beneficiaries

Conference agreement
The Senate recedes to the House.

The conference agreement follows the House bill and the Senate amendment with
the modification that the Commissioner is required to make for independent evaluations of program effectiveness.

6. Advisory Panel

Present law

No provision. (See description of present law under “1. Ticket System” above.)

House bill

The bill establishes a Ticket to Work and Work Incentives Advisory Panel consisting of experts representing consumers, providers, and workers; employers; and providers. The Advisory Panel is to be composed of representatives of individuals with disabilities. The Advisory Panel is to be composed of twelve members appointed as follows:

Four by the President, not more than two of whom may be of the same political party;
Two by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means;
Two by the Minority Leader of the House of Representatives, in consultation with ranking minority member of the Committee on Ways and Means;
Two by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Finance; and
Two by the Minority Leader of the Senate, in consultation with the ranking minority member of the Committee on Finance.

The panel is to advise the Commissioner and report to the Congress on program implementation including such issues as the establishment of pilot sites, refinements to the program, and the design of program evaluations.

Senate amendment

Similar provision, except the Senate amendment:

Names the panel the Work Incentives Advisory Panel;

Does not specify that, of the 4 members of the panel appointed by the President, “not more than 2 . . . may be of the same political party”;

Provides that the Commissioner, as opposed to the President under the House bill, is to determine whether panel members’ initial terms will be 2 or 4 years;

Specifies that “all members appointed to the panel shall have experience or expert knowledge in the general work and disability-related fields, whereas the House bill requires that “at least 8” shall have such experience or knowledge, with at least 2 “representing the interests of” each of the following groups: service recipients, service providers, employers, and employees;

Provides that the Director of the Advisory Panel is to be appointed by the Commissioner in the Senate amendment (compared with the Advisory Panel in the House bill); and

Provides that the panel shall be paid from amounts made available for administration of the Title II and Title XVI programs under the Senate amendment (compared with the House bill), which authorizes such amounts from the OASI and DI trust funds and from the general fund of the Treasury for this purpose.

Conference agreement

The conference agreement follows the House bill, except that all 12 panel members would be required to have experience or expert knowledge as a recipient, provider, employer, or advocate, and is based on the expectation that individuals with disabilities, as opposed to representatives of individuals with disabilities, would be appointed.

In addition, the terms of initial appointment would be set by the individual making the appointment, with each individual making appointments designating one-half of the term for a term of 4 years and the other half for a term of 2 years. The conference agreement also provides that the Director of the Panel would be appointed by the Chairman of the Advisory Panel.

Work Activity Standard as a Basis for Review of an Individual’s Disabled Status

Present law

Eligibility for Social Security disability insurance (SSDI) cash benefits requires an applicant to meet certain criteria, including the presence of a disability that renders the individual unable to engage in substantial gainful activity as defined as work that results in earnings exceeding an amount set in regulations ($300 per month, as of July 1, 1998). Continuing disability reviews (CDRs) are conducted by the Social Security Administration (SSA) to determine whether an individual remains disabled and thus eligible for continued benefits. CDRs may occur at any time after a beneficiary has recovered from a disability and SSA makes a determination of not more than 6 months. If the Commissioner makes a favorable determination, the beneficiary would be reinstated, as would be the prior benefits of his or her dependents who continue to meet the entitlement criteria. If the Commissioner makes an unfavorable determination, provisional benefits would end, but the provisional benefits already paid would not be considered an overpayment. This provision is effective one year after enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Work Incentives Outreach Program

Present law

The Social Security Administration prepares and distributes educational materials on work incentives for individuals receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits, including on the Internet. Social Security Administration personnel in its 1,300 field offices are available to answer questions about work incentives. Work incentives currently include: exclusions for impairment-related work expenses; trial work periods during which an individual may continue to receive cash benefits; and a 36-month extended period of eligibility during which cash benefits can be reinstated at any time, continued eligibility for Medicaid and/or Medicare; continued payment of benefits while a beneficiary is enrolled in a vocational rehabilitation program; and plans for achieving self-support (PASS).

House bill

The Commissioner of Social Security is required to establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals on work incentives. Under this program, the Commissioner is required to:

Establish a program of grants, cooperative agreements, or contracts to provide benefits planning and assistance (including protection and advocacy services) to individuals with disabilities and outreach to individuals with disabilities who are potentially eligible for work incentive programs; and

Establish a corps of work incentive specialists located within the Social Security Administration.

The Commissioner is required to determine the qualifications of grantees, cooperative agreements, or contracts. Social Security Administration field offices and State Medicaid agencies are required to participate in the program. The program may include Centers for Independent Living, protection and advocacy organizations, and client assistance programs (established in accordance with the Independent Living Act of 1973, as amended); State Developmental Disabilities Councils (established in accordance with...
with the Developmental Disabilities Assistance and Bill of Rights Act; and State welfare agencies (funded under Title IV-A of the Social Security Act).

Annual appropriations would not exceed $23 million for fiscal years 2000–2004. The provision would expire effective upon enactment. The grant amount in each State would be based on the number of beneficiaries in the State, subject to certain limits. Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

State Grants for Work Incentives Assistance to Disabled Beneficiaries

Present law

Grants to States to provide assistance to individuals with disabilities are authorized under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.). Such assistance includes information and referral to programs and services and legal, administrative, and other appropriate remedies to ensure access to services.

House bill

The Commissioner of Social Security is authorized to make grants to existing protection and advocacy programs authorized by the States under the Developmental Disabilities Assistance and Bill of Rights Act. Services would include information and advice about obtaining vocational rehabilitation, employment services, advocacy, and other services. The Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) recipient who continues to have a severe medically determinable physical or mental impairment, and which is expected to last for at least 12 months, or result in death, or which has lasted or is expected to last for at least 12 months. Eligibility for SSI is determined by certain income and resource standards. Individuals are eligible for SSI if their “countable” income falls below the Federal maximum monthly SSI amount ($500 for an individual, and $751 for couples in 1999). The Federal limit on resources is $2,000 for an individual, and $3,000 for couples. Resources include countable and uncountable resources, including an individual’s home, and the first $4,500 of the current market value of an automobile.

In addition, States must provide Medicaid coverage for certain individuals under 65 who are working. These persons are referred to as “qualified severely impaired individuals” under and 65 who are working. These persons are referred to as “qualified severely impaired individuals” under the Developmental Disabilities Assistance and Bill of Rights Act of 1992 (P.L. 102-560). The Federal limit on resources for “qualified severely impaired individuals” with earnings reach or exceed the basic SSI benefit standard, with disregards as determined by the States. Individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per week. Other income (e.g., non-work related) is not considered if it does not exceed $7,000 per year. The Federal limit on resources for an individual with earnings reach or exceed the basic SSI benefit standard, with disregards as determined by the States. The current disregard for earnings is $1,085 per month. This special eligibility status applies as long as the individual:

1. Continues to work and is a member of an SSI-covered household; or
2. Continues to work and is a member of a non-SSI-covered household; or
3. Continues to be blind or have a disabling impairment.

Except for earnings, continues to meet all other SSI eligibility requirements.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Title II. Expanded Availability of Health Care Services

Expanding State Options Under the Medicaid Program for Workers with Disabilities

Present law

Most States are required to provide Medicaid coverage for disabled individuals who are eligible for Supplemental Security Income (SSI). Individuals are considered disabled if they are unable to engage in substantial gainful activity (defined in Federal regulations as earnings of $700 per month) due to a medically determinable physical or mental impairment that is expected to last for at least 12 months, or result in death, or which has lasted or is expected to last for at least 12 months. Eligibility for SSI is determined by certain income and resource standards. Individuals are eligible for SSI if their “countable” income falls below the Federal maximum monthly SSI benefit ($500 for an individual, and $751 for couples in 1999). The Federal limit on resources is $2,000 for an individual, and $3,000 for couples. Resources include countable and uncountable resources, including an individual’s home, and the first $4,500 of the current market value of an automobile.

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1. Continues to work and is a member of an SSI-covered household; or
2. Continues to work and is a member of a non-SSI-covered household; or
3. Continues to be blind or have a disabling impairment.

Except for earnings, continues to meet all other SSI eligibility requirements.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.
would be eligible for Medicare Part A coverage. Medicare Part A coverage would continue indefinitely after the termination of the 6-year period following enactment of the bill for any individual who is enrolled in the Medicare Part A program for the month that ends the 6-year period, without requiring the beneficiaries to pay premiums. It also provides for conforming amendments to facilitate these provisions.

The Senate amendment does not require GAO to examine the viability of an employer buy-in to Medicare.

Conference agreement

The State responds to the House, but instead of the 6-year extension beyond current law in the House bill, the agreement includes a 4½ year extension.

Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities

Present law

No provision.

House bill

The bill requires the Secretary of HHS to award grants to design, establish, and operate infrastructures that provide items and services to support working individuals with disabilities, and to conduct outreach campaigns to inform them about the infrastructures. States would be eligible for these grants under the following conditions:

- They must provide Medicaid coverage to employed individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for Supplemental Security Income (SSI), except for earnings.
- They must provide personal assistance services to assist individuals eligible under the bill to remain employed (that is, earn at least the Federal minimum wage and work at least 40 hours per month, or engage in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of HHS).

Personal assistance services refer to a range of services provided by one or more personal assistants with disabilities to perform daily activities on and off the job. These services would be designed to increase individuals' participation in life.

The Secretary of HHS is required to develop a formula for the award of infrastructures to States that extend Medicaid coverage to persons who cease to be eligible for SSI and SSI because of an improvement in their medical condition, but who still have a severely medically determinable impairment and are employed.

Grant amounts to States must be a minimum of $500,000 per year, and may be up to a maximum of 15 percent of Federal and State Medicaid expenditures for individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for earnings; and for individuals who cease to be eligible for Medicaid because of medical improvement.

States would be required to submit an annual report to the Secretary on the use of grant funds. In addition, the report must indicate the percent increase in the number of SSI and SSI beneficiaries who return to work.

For developing State infrastructure grants, the bill authorizes the following amounts:
- FY2001, $20 million;
- FY2002, $30 million;
- FY2003, $35 million;
- FY2004, $40 million; and
- FY2005–10, the amount of appropriations for the preceding fiscal year plus the percent increase in the Consumer Price Index for All Urban Consumers for the preceding fiscal year. The bill stipulates budget authority in advance of appropriations.

The Secretary is required to award grants with preference to States that do not choose to take up the optional Medicaid eligibility category permitting expansion to individuals with disabilities with incomes up to 250 percent of poverty who are not disabled, but are subject to a maximum grant award established by a methodology developed by the Secretary consistent with the limit applied to states that do take up the option. For those states that do take up the option, the maximum will be 10 percent, rather than the 15 percent included in the House and Senate bills. The conference agreement increases the Federal medical assistance percentage (FMAP) of expenditures and the availability of funds. Funds awarded to States would equal their Federal medical assistance percentage (FMAP) or expenditures for medical assistance to workers with a potentially severe disability.

The Secretary of HHS is required to make a recommendation by October 1, 2002, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should continue after FY2003.

Senate amendment

Similar provision, except for the following:
- Requires States to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings.
- Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration project and approved by the Secretary.
- The bill authorizes $56 million for the 5-year period beginning FY2000. The bill prohibits any further payments to States beginning in FY2006.

Unexpended funds from previous years may be spent in subsequent years, but only through FY2005. The Secretary is required to allocate funds to States based on their applications and the availability of funds. Funds awarded to States would equal their Federal medical assistance percentage (FMAP) or expenditures for medical assistance to workers with a potentially severe disability.

The Secretary of HHS is required to make a recommendation by October 1, 2002, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should continue after FY2003.

Demonstration of Coverage under the Medicaid Program of Workers with Potentially Severe Disabilities

Present law

No provision.

House bill

The Secretary of HHS is required to apply demonstration programs that would provide Medicaid coverage to individuals under Medicaid for disabled persons age 16–64 who are “workers with a potentially severe disability.” These are individuals who meet a State definition of physical or mental impairment who are employed and who are reasonably expected to meet SSI’s definition of blindness or disability if they did not receive Medicaid services.

The Secretary is required to approve demonstration programs if the State meets the following requirements:

- The State has elected to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings.
- Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration project and approved by the Secretary.
- The bill authorizes $56 million for the 5-year period beginning FY2000. The bill prohibits any further payments to States beginning in FY2006.

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Senate amendment

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- Requires States to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings.
- Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration project and approved by the Secretary.
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- Requires States to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings.
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Senate amendment

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- Requires States to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings.
- Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration project and approved by the Secretary.
- The bill authorizes $56 million for the 5-year period beginning FY2000. The bill prohibits any further payments to States beginning in FY2006.

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The Secretary of HHS is required to make a recommendation by October 1, 2002, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should continue after FY2003.
These provisions would be effective October 1, 2000. In addition, the House recedes to the Senate on the inclusion on the annual report. The limitation on administrative expenses is reduced to $2 million. States' definitions of work with potential severe disabilities can include individuals with a potentially severe disability that can be traced to congenital birth defects as well as diseases or injuries developed or incurred through illness or accident in childhood or adulthood.

Electio by Disabled Beneficiaries to Suspend Medigap Insurance when Covered under a Group Health Plan Present law
No provision. House bill
The bill requires Medigap supplemental insurance plans to provide that benefits and premiums of such plans be suspended at the policyholder's request if the policyholder is entitled to Medicare Part A benefits as a disabled individual and is covered under a group health plan (offered by an employer with 20 or more employees). If suspension occurs and the policyholder loses coverage under the group health plan, the Medigap policy is required to be automatically reinstated as of the date of loss of group coverage. If the policyholder provides notice of the loss of such coverage within 90 days of the date of losing group coverage. Senate amendment
Identical provision.
Conference agreement
The conference agreement follows the House bill and the Senate amendment.

Title III. Demonstration Projects and Studies

Section 505 of the Social Security Disability Amendments of 1980, as amended, (42 U.S.C. 1311) provides the Commissioner of Social Security authority to conduct certain demonstration projects. The Commissioner may initiate experiments and demonstration projects to test ways to encourage Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects. This demonstration authority expired on June 9, 1996.

House bill
Effective as of the date of enactment, the bill extends the demonstration authority for 5 years, and includes authority for demonstration projects involving applicants as well as beneficiaries. Senate amendment
The Senate amendment provides for permanent demonstration authority.
Conference agreement
The Senate recedes to the House.

Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings Present law
No provision. House bill
The bill would require the Commissioner of Social Security to conduct a demonstration project under which payments to Social Security disability insurance (SSDI) beneficiaries would be reduced $1 for every $2 of beneficiary earnings. The Commissioner would be required to annually report to the Congress on the progress of this demonstration project. Senate amendment
Identical provision. Conference agreement
The conference agreement follows the House bill and the Senate amendment.

Studies and Reports

Present law

- **House bill**
  - 1. GAO Report of Existing Disability-Related Employment Incentives
     The bill would direct the General Accounting Office (GAO) to assess the value of existing tax credits and disability-related employment initiatives under the Americans with Disabilities Act and other Federal laws. The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.
  - 2. GAO Report of Existing Coordination of the DI and SSI Programs as They Relate to Individuals Entering or Leaving Concurrent Entitlement
     The bill would direct the General Accounting Office (GAO) to evaluate the coordination under current law of work incentives for individuals eligible for both Social Security disability insurance (SSDI) and Supplemental Security Income (SSI). The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.
     The bill would direct the General Accounting Office (GAO) to examine substantial gainful activity limit as a disincentive for return to work. The report is to be submitted within 2 years to the Senate Committee on Finance and the House Committee on Ways & Means.
  - 4. Report on Disregards Under the DI and SSI Programs
     The bill would direct the Commissioner of Social Security to identify all income disregards under the Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) programs; to specify the most recent statutory or regulatory change in each disregard; and to report any changes in regulations or disregard limits since January 1, 2000. The report is to be submitted 90 days to the Senate Committee on Finance and the House Committee on Ways & Means.
  - 5. GAO Report on SSA’s Demonstration Authority
     The bill would direct GAO to assess the Social Security Administration’s (SSA) efforts to conduct disability demonstrations and to make a recommendation as to whether SSA’s disability demonstration authority should be made permanent. The report is to be submitted within 5 years to the Senate Committee on Finance and the House Committee on Ways & Means.

- **Senate amendment**
  - 1. GAO Report of Existing Disability-Related Employment Incentives
  - 2. GAO Report of Existing Coordination of the DI and SSI Programs as They Relate to Individuals Entering or Leaving Concurrent Entitlement
  - 4. Report on Disregards Under the DI and SSI Programs
  - 5. GAO Report on SSA’s Demonstration Authority

Conference agreement
The conference agreement follows the House bill and the Senate amendment.

Title IV. Miscellaneous and Technical Amendments

Technical Amendments Relating to Drug Addicts and Alcoholics

Present law
Public Law 104–121 included amendments to the SSDI and SSI disability programs providing that no individual could be considered to be disabled if alcoholism or drug addiction would otherwise be a contributing factor material to the determination of disability. The effective date for all new and pending applications was the date of enactment (March 29, 1996). For those whose claim had been finally adjudicated before the date of enactment, the amendments would apply commencing with benefits for months beginning on or after January 1, 1997. Individuals receiving benefits due to drug addiction or alcoholism can reapply for benefits based on another impairment. If the individual applied within 120 days after the date of enactment, the Commissioner is required to complete the entitlement redetermination in 90 days. If the individual applied after the 120-day period, the Commissioner is required to complete the entitlement redetermination in 180 days.

Public Law 104–121 provided for the appointment of representative payees for recipients allowed benefits due to another impairment before March 29, 1996, and redetermined before July 1, 1996, from the requirement that a representative payee be appointed and that the beneficiary be referred for treatment. The amendments are effective as though they had been included in the enactment of Section 105 of Public Law 104–121 on March 29, 1996.

Senate amendment
Identical provision.
Conference agreement
The conference agreement follows the House bill and the Senate amendment.

Treatment of Prisoners

1. Implementation of Prohibition Against Payment of Title II Benefits to Prisoners

Present law
Current law prohibits prisoners from receiving Old Age, Survivors and Disability (OASDI) benefits while incarcerated. If they are convicted of any crime punishable by imprisonment of more than 1 year. Federal, State, county or local prisons are required to make available, upon written request, the name and Social Security account number of any individual so convicted who is confined in a penal institutional or correctional facility.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly referred to as the welfare reform law, requires the Commissioner to make agreements with any interested State or local institution to provide monthly the names, Social Security account numbers, confinement date and date of birth, and other identifying information of residents who areSSI recipients. The Commissioner is required to pay
the institution $400 for each SSI recipient who becomes a result of such information is provided within 30 days of incarceration, and $200 if the information is furnished after 30 days but within 90 days.

P.L. 104-193 requires the Commissioner to study the feasibility, and cost of establishing a system for courts to directly furnish SSA with information regarding court orders affecting SSI recipients, and requiring that State and local jails, prisons, and other institutions that enter into contracts with the Commissioner to furnish the information by means of an electronic or similar data exchange system.

The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

House bill

The House bill amends prisoner provisions in the welfare reform law to include recipients of OASDI benefits in the prisoner reporting system.

The amendment also requires the Commissioner to enter into an agreement with any interested State or local correctional institution to provide monthly the names, Social Security account numbers, confinement dates, dates of birth, and other identifying information regarding prisoners who receive OASDI benefits. Certain requirements for computer matching agreements would not apply. For each eligible individual who becomes ineligible as a result, the Commissioner would pay the institution an amount up to $200 if provided after 30 days but within 90 days.

Payments to correctional institutions would be reduced by 50 percent for multiple reports on the same individual who receives both SSI and OASDI benefits. Payments made to the correctional institution would be made from OASI or DI Trust Funds, as appropriate.

The Commissioner is required to provide on a reimbursable basis information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

House bill

The amendment is designed to clarify the provision in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, in cases in which an inmate receives benefits under both the SSI and Social Security programs, payments to correctional facilities would be reduced to $400 or $200, depending on when the report is furnished. The amendment also expands the categories of institutions eligible to report incarceration of prisoners. The provision is effective as of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on August 22, 1996.

Senate amendment

Similar provision, but limits the uses of this information to ‘‘eligibility purposes’’ not including ‘‘other administrative purposes’’ as provided in the House bill; and

Does not include conforming amendments.

Conference agreement

The Social Security Act bars payment of OASDI benefits to prisoners convicted of any crime of violence. However, the Act allows for payments to be made from the employer.

The conference agreement follows the House bill and the Senate amendment.

Reconciliation by Members of the Clergy of Exemption From Social Security Coverage

The conference agreement follows the House bill and the Senate amendment.

Additional Technical Amendment Relating to Cooperative Research or Demonstration Projects Under Titles II and XVI

The provision clarifies current law to include agreements or grants concerning Title II of the Social Security Act and is effective as of August 15, 1994.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Authorization for States to Permit Annual Social Security Reports

The Social Security Domestic Employment Reform Act of 1994 (P.L. 103-387) changed certain Social Security and Medicare tax rules. Specifically, the Act provided that, in order to join Social Security, the individual must earn no more than $1,000 per year.

In addition, the Act simplified certain reporting requirements. Domestic employers...
The provision allows States the option of permitting direct payment of attorney fees to be made by an attorney or non-attorney to represent a claimant in administrative proceedings for Social Security, SSI, or Part B Black Lung benefits.

Under the fee agreement process, the representative and claimant submit a signed agreement reflecting the amount of the fee before the date of a favorable decision, and the agreement will be approved by the Commissioner if the specified fee does not exceed the lesser of 25 percent of the claimant's past-due benefits or $1,000. The Commissioner then issues a notice of the maximum fee the representative can charge based on the approved agreement.

Under the fee petition process, the representative submits an itemized list of services and fees after a decision has been issued. The Commissioner will issue a notice of the fees that are approved or disapproved after reviewing the extent of services performed, the amount of time spent by the representative on the case. The Social Security Act and Social Security regulations provide that a representative may charge an attorney fee of not more than 25 percent of the claimant's past-due benefits or $1,000. The Commissioner may not issue a notice of the fee petition or fee agreement process before the end of the 15-day waiting period, but shall not exceed 6.3 percent of the attorney's fee. The Conference agreement provides that the Commissioner of Social Security will take into account the costs of determining, processing, withholding, and distributing payment of fees to attorneys.

The agreement contemplates ongoing Congressional oversight of the attorney fee assessment process through hearings and requires a study by the General Accounting Office (GAO) to examine the costs of administering the attorney fee assessment. The Commissioner is directed to reduce the cost of determining and certifying fees, the feasibility of linking the collection of the assessment to the timeliness of the payment of fees to attorneys, and the collection of the assessment. The Conference agreement also eliminates the requirement that the Commissioner may not certify a fee before the end of the 15-day waiting period, but does not affect any beneficiary's right of appeal.

The Conference agreement follows the House bill with the modification that, for calendar years for which an assessment would be set at a rate to achieve full recovery of the costs of determining, processing, withholding, and distributing payment of fees to attorneys, the conference agreement provides that an attorney's fee would be set at a rate to achieve full recovery of the costs associated with certifying fees to attorneys. The Conference agreement provides that the Commissioner of Social Security will take into account the costs of determining, processing, withholding, and distributing payment of fees to attorneys. The Conference agreement also eliminates the requirement that the Commissioner may not certify a fee before the end of the 15-day waiting period, but does not affect any beneficiary's right of appeal.

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November 17, 1999

CONGRESSIONAL RECORD—HOUSE

House bill

The bill permits State Medicaid Fraud Control Units to investigate fraud related to any Federal health care program, subject to the approval of the appropriate Inspector General, if the suspected fraud is related to Medicaid fraud. Funds that are recovered would be returned to the relevant Federal health care program or the Medicaid program. Fraud control units would be permitted to institute patient abuse in non-Medicaid residential health care facilities.

Senate amendment
No provision.

Conference agreement
The Senate recedes to the House.

Climate Database Modernization
Present law
No provision.

House bill
No provision.

Senate amendment
No provision.

Conference agreement
Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NIH Image World Contract #285-96-D-0323 and Task Order #285-DKNE-9-9803 which were awarded as a result of fair and open competition conducted in response to NOAA’s solicitation IW SOW 1062.

Special Allowance Adjustment for Student Loans
Present law
Under the Higher Education Act of 1965, the special allowance paid to lenders for participation in the Federal Family Education Loan Program is pegged to the rate for 91-day Treasury bills.

House bill
The bill changes the index for the special allowance from 91-day Treasury bills to that for 3-month commercial paper and would be applicable for payment with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

Senate amendment
No provision.

Conference agreement
The Senate recedes to the House. In receding to the House on the provision, the conference wish to note that the Higher Education Act reauthorization (P.L. 105–244) required the establishment of a study group to design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of Title IV loans. Not fewer than three different mechanisms were to be identified and evaluated by this group which was to report to the Congress no later than May 15, 2001. The conference wish to note that the Chairman and Ranking Member of the Committee on Education and the Workforce and the Chairman and Ranking Member of the House Subcommittee on Postsecondary Education, Training and Life Long Learning have endorsed the change to the lender yield calculation on student loans contained in the bill. The proposal change lender yields from January 1, 2000 through June 30, 2003 at which time the House Education and the Workforce Committee, the Senate Health, Education, Labor, and Pension Committee can appropriately review this item during the consid-eration of the Higher Education Act reauthorization.

Schedule for Payments Under SSI State Supplementation Agreements
Present law
States may supplement the federal Supplemental Security Income (SSI) payment. The Social Security Administration (SSA) administers this additional payment for 26 States. Under current regulations, States must reimburse SSA within 5 business days after the monthly supplement payment has been made by SSA.

House bill
No provision.

Senate amendment
No provision.

Conference agreement
The conference agreement would change the date for remitting reimbursement by the States to no later than the business day preceding the date SSA pays the monthly benefit. For the payment for the last month of the State’s fiscal year, States shall remit the reimbursement by the fifth business day following the date SSA pays the monthly benefit. The agreement also provides for a penalty of 5 percent of the payment and fees due if the payment is received after the specified dates. This provision is effective for monthly benefits paid for months after September 2009 (October 2009 for States with fiscal years that coincide with the Federal fiscal year).

Bonus Commodities Related to the National School Lunch Act
Present law
In the School Lunch program, schools are entitled to federal food commodity assistance for each time they serve. Commodity assistance must equal a specific amount per meal, about 15 cents a meal in the 1999–2000 school year. In addition, when all school lunch program aid (cash and commodities) are added together, the value of commodities purchased to meet the per-meal (15-cent) entitlement—so-called entitlement commodities—must equal 25 percent of the total cash and commodity aid provided. If not, the Agriculture Department is required to buy additional commodities to meet the 12 percent requirement.

The Agriculture Department appropriations laws for fiscal years 1999 and 2000 changed this 12 percent rule temporarily. They required that any commodities acquired by the Agriculture Department for farm support reasons, and then donated to schools in the school lunch program (so-called bonus commodities), be counted when judging whether the 12 percent requirement has been met.

House bill
No provision.

Senate amendment
No provision.

Conference agreement
The conference agreement would apply the provisions incorporated in the Agriculture Department appropriations laws for fiscal years 1999 and 2000 to fiscal years 2001 through 2009.

Simplification of Foster Child Definition Under Earned Income Credit
Present law
For purposes of the earned income credit (“EIC”), qualifying children may include foster children to reside with the taxpayer for a full year, if the taxpayer cares for the foster children as the taxpayer’s own children.

(Repealed by House on the provision, the conference and the Senate, the provisions of S. 331 (the “Work Incentives Improvement Act of 1999’’), as passed by the Senate, the provisions of H.R. 2923 (“Extension of Expiring Provisions’’), and the conference agreement to H.R. 1180 contain provisions to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities. Provisions of H.R. 2923 (“Extension of Expiring Provisions’’), as approved by the Ways and Means Committee on September 28, 1999, and S. 1792, (the “Tax Relief Extension Act of 1999’’), as passed by the Senate on October 29, 1999, are included in the conference agreement to H.R. 1180.

I. EXTENSION OF EXPIRED AND EXPIRING TAX PROVISIONS

A. Extend Minimum Tax Relief for Individuals (secs. 24 and 26 of the Code)

Present law
Present law provides for certain non-refundable personal tax credits (i.e., the dependent care credit, the credit for the elderly

1The provisions of H.R. 2923 were reported by the House Committee on Ways and Means on September 28, 1999 (H. Rept. 106–344).

2The provisions of S. 331 were reported by the Senate Committee on Finance on October 26, 1999 (S. Rept. 106–281).
and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer’s credit). Except for taxable years beginning during 1998, these credits are allowed against the individual’s regular income tax liability. The individual’s regular income tax liability exceeds the individual’s tentative minimum tax, determined without regard to the minimum tax.

An individual’s tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income (“AMTI”) in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual’s taxable income adjusted to take account of specified preferences and adjustments.

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer’s qualified research expenditures for a taxable year exceed its base amount (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability). The credit is refundable (subject to a limiting amount determined without regard to the minimum tax).

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

B. Extend Research and Experimentation Tax Credit and Increase Rates for the Alternative Incremental Research Credit (sec. 41 of the Code)

Present Law

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer’s qualified research expenditures for a taxable year exceed its base amount (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability). The credit is refundable (subject to a limiting amount determined without regard to the minimum tax).

Under the conference agreement, the refundable child credit will not be reduced by the amount of an individual’s minimum tax in taxable years beginning in 1999, 2000, and 2001.

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.
credit rate applicable under the alternative increment of research credit by one percentage point per credit.

The conference agreement follows S. 1792 by expanding the definition of qualified research to include research undertaken in Puerto Rico and possessions of the United States.

Research tax credits that are attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000. On or after October 1, 2000, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. The prohibition on taking credits attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, into account as payments prior to October 1, 2000, extends to the determination of any penalty or interest under the Code. For example, the prohibition on taking credits attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, into account as payments prior to October 1, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000 (excluding extensions) may not be reduced by any such credits.

Similarly, research tax credits that are attributable to the period beginning on October 1, 2000, and ending on September 30, 2001, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2001, on or after October 1, 2001, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. Likewise, the prohibition on taking credits attributable to the period beginning on October 1, 2000, and ending on September 30, 2001, into account as payments prior to October 1, 2001, extends to the determination of any penalty or interest under the Code.

In extending the research credit, the conferences note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the "common knowledge" standard. The conferences further note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d). The conferences wish to reaffirm that qualified research be administered in a manner that is consistent with the intent Congress has expressed in enacting and extending the research credit. The conferences urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the "common knowledge" standard.

The conferences also are concerned about unnecessary and costly taxpayer record keeping burdens and reaffirm that eligibility for the research credit is not intended to be contingent on meeting unreasonable record keeping requirements. Effective date. The extension of the related person is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through June 30, 2004.

The increase in the credit rate under the alternative increment of research credit is effective for taxable years beginning after June 30, 1999.

C. Extend Exceptions under Subpart F for Active Financing Income (secs. 853 and 854 of the Code)

Present Law

Under the subpart F rules, 10-percent U.S. shareholders of a controlled foreign corporation ("CFC") currently on certain income earned by the CFC whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, foreign personal holding company income and insurance income. In addition, 10-percent U.S. shareholders of a CFC are liable for current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person in the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following:

1. dividends, interest, royalties, rents, and annuities;
2. net gains from the sale or exchange of property that gives rise to the preceding types of income, and property that does not give rise to income but that gives rise to property interests in trusts, partnerships, and REMICs;
3. net gains from commodities transactions;
4. net gains from foreign currency transactions;
5. income or gain incidental to interest;
6. income from notional principal contracts; and
7. payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the country in which the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located outside the CFC's country of organization in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance contract including income attributable to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953-1(a)).

The conferees are concerned that the definition of active financing income (so-called "active financing income") in the Code as presently written is applicable only for taxable years beginning after December 31, 1999. With respect to income derived in the active conduct of a banking, financing, or similar business by a qualified financial institution ("QFI"), this income is also subject to tax under the subpart F provisions.

Temporary exceptions for specific purposes apply to active financing income derived by an active financial institution in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross-border transactions, provided that certain requirements are met. Additional exceptions from foreign personal holding company income apply for certain income derived by a company's QBU in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross-border transactions, provided that certain requirements are met.

Under the subpart F rules, 10-percent U.S. shareholders of a controlled foreign corporation ("CFC") currently on certain income earned by the CFC whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, foreign personal holding company income and insurance income. In addition, 10-percent U.S. shareholders of a CFC are liable for current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person in the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following:

1. dividends, interest, royalties, rents, and annuities;
2. net gains from the sale or exchange of property that gives rise to the preceding types of income, and property that does not give rise to income but that gives rise to property interests in trusts, partnerships, and REMICs;
3. net gains from commodities transactions;
4. net gains from foreign currency transactions;
5. income or gain incidental to interest;
6. income from notional principal contracts; and
7. payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the country in which the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located outside the CFC's country of organization in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance contract including income attributable to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953-1(a)).

The conferees are concerned that the definition of active financing income (so-called "active financing income") in the Code as presently written is applicable only for taxable years beginning after December 31, 1999. With respect to income derived in the active conduct of a banking, financing, or similar business by a qualified financial institution ("QFI"), this income is also subject to tax under the subpart F provisions. The conferees urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the "common knowledge" standard. The conferences note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the "common knowledge" standard.

The conferences also are concerned about unnecessary and costly taxpayer record keeping burdens and reaffirm that eligibility for the research credit is not intended to be contingent on meeting unreasonable record keeping requirements. Effective date. The provision is effective for taxable years beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of certain financial corporations end.

No provision, but S. 1792, as passed by the Senate, extends for one year the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Effective date.—The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of certain financial corporations end.

No provision, but S. 1792, as passed by the Senate, extends for one year the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Temporary exceptions from the subpart F provisions for certain active financing income applied only for taxable years beginning after December 31, 1999. The conferees extended and modified as part of the present-law provision.
Effective date.—The provision is effective only for taxable years of foreign corporations beginning in 2000, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

Conference Agreement

The conference agreement includes the provision in H.R. 2923 and S. 1792, with a modification to the effective date. The provision in the conference agreement extends for two years, the temporary modification to the 100-percent-of-net-income limitation with respect to oil and gas production from marginal properties during taxable years beginning after December 31, 1999, and before January 1, 2005.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, extends the work opportunity tax credit for 18 months (through December 31, 2000) and clarifies the definition of first year of employment for purposes of the WOTC.

Effective date.—The provision is effective for wages paid or incurred by qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement provides for a 30-month extension of the work opportunity tax credit. The conference agreement also includes the clarification of the definition of first year of employment for purposes of the WOTC that is included in H.R. 2923 and S. 1792. Finally, the conference also directs the Secretary of the Treasury to expedite the use of electronic filing of requests for certification under the credit. They believe that participation in the program by businesses should not be discouraged by the requirements such forms (e.g., the Form 8850) be submitted in paper form.

Effective date.—The provision is effective for wages paid or incurred by qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

E. Extend the Work Opportunity Tax Credit (sec. 51 of the Code)

Present Law

The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2000.

Conference Agreement

The conference agreement includes H.R. 2923 and S. 1792, with a modification providing an extension period through taxable years beginning before January 1, 2002.

F. Extend the Welfare-To-Work Tax Credit (sec. 613A of the Code)

Present Law

The Code provides to employers a tax credit on the first $20,000 of eligible wages paid to qualified long-term family assistance (AFDC or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance; (2) health plan coverage for the employee, but not more than the applicable premium defined under section 2706 of the Internal Revenue Code; (3) dependent care assistance under section 129.

The welfare to work credit is effective for wages paid or incurred by qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

House Bill

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the welfare-to-work tax credit for 30 months.

November 17, 1999

CONGRESSIONAL RECORD—HOUSE

30105

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792 as passed by the Senate reinstates the exclusion for employer-provided educational assistance for graduate-level courses, and extends the exclusion as applied to undergraduate and graduate-level courses, through December 31, 2000. The provision in S. 1792 is effective with respect to undergraduate courses beginning after May 31, 2000, and to graduate courses after January 1, 2001. The provision is effective with respect to graduate-level courses beginning after December 31, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement provides that the present-law exclusion for employer-provided educational assistance is extended through December 31, 2001. Effective date.—The provision is effective with respect to courses beginning after May 31, 2000, and before January 1, 2002.

H. Extend and Modify Tax Credit for Electricity Produced by Wind and Closed-Loop Biomass Facilities (sec. 45 of the Code)

Present Law
An income tax credit is allowed for the production of electricity from either qualified wind energy or qualified “closed-loop” biomass facilities (see 45). The credit applies to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999, and to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999. The credit is allowable for production during the 10-year period after a facility is originally placed in service.

Closed-loop biomass is the use of plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste) that is also not available to taxpayers who use standing timber to produce electricity. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party.

House Bill

No provision.

Senate Amendment

No provision, but S. 1792 as passed by the Senate extends the present-law tax credit for electricity produced by wind and closed-loop biomass facilities for service after June 30, 1999, and before December 31, 2000. S. 1792 also modifies the tax credit to include electricity produced from poultry waste facilities (placed in service after December 31, 1999, and before January 1, 2001). S. 1792 also modifies the tax credit to include electricity produced from closed-loop biomass facilities, through December 31, 2000.

Conference Agreement

The conference agreement includes S. 1792, with modifications. First, the extension is directed to electricity produced from present-law qualified sources (wind and closed-loop biomass) and from poultry waste facilities (placed in service after December 31, 1999, and before January 1, 2001). Second, in the case of closed-loop biomass sources, the extension is limited to facilities placed in service before January 1, 2002. Third, the conference agreement does not include the provisions of the Senate amendment allowing co-firing of closed-loop biomass facilities. Fourth, the conference agreement includes the provisions of the Senate amendment clarifying wind facilities eligible for the credit.


Present Law
The conference agreement would reauthorize GSP under the Trade Act of 1974 for 27 months, to expire on September 30, 2001. The proposal provides for extensions, subject to certain conditions and limitations. To qualify for GSP privileges, each beneficiary country is subject to various mandatory and discretionary eligibility criteria. Import-sensitive products are ineligible for GSP. Section 505 (a) of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V shall remain in effect after June 30, 1999.

House Bill

No provision.

Senate Amendment

No provision. The Senate amendment to H.R. 434, which passed the Senate on November 3, 1999, reauthorizes GSP retroactively for five years to terminate on June 30, 2004. It also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (a) of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if such entry had been made on June 30, 1999, and (b) that was made after June 30, 1999, and before the date of enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment of this Act.

Conference Agreement

The conference agreement would reauthorize the GSP program for 27 months, to expire on September 30, 2001. The proposal provides for refunds, upon request of the importer, of any duty paid between June 30, 1999 and the effective date of this Act, subject to certain conditions, in a manner consistent with this Act.
qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, certain States and local governments are given the authority to issue "qualified zone academy bonds." A total of $400 million of qualified zone academy bonds is authorized to be issued in each of 1998 and 1999. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit to qualified zone academies within such State. A State may carry over any unused allocation into subsequent years.

Certain financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to the credit rate multiplied by the face amount of the bond (sec. 1397E). A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without the credit count and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

"Qualified zone academy bonds" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing, or acquiring qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in one of the 31 designated empowerment zones; (b) the 95 enterprise communities designated under Code section 1391; or (c) it is reasonably expected that at least 35 percent of the students at the school will be eligible as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing, or acquiring qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

The conference agreement provides for a one-year extension of the tax credit for first-time D.C. homeowners, so that it applies to residences purchased after December 31, 2000. Effective date.—The provision to expand the class of eligible sites is effective for expenditures paid or incurred after December 31, 1999.

House Bill

K. Extend the Tax Credit for First-Time D.C. Homebuyers (sec. 1400C of the Code)

In general

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The $5,000 maximum credit applies both to individuals and married couples. Married individuals filing separately can claim a maximum credit of $2,500 each. The credit phases out for individual taxpayers with adjusted gross income of at least $70,000, and $90,000, ($110,000–$130,000 for joint filers). For purposes of eligibility, “first-time homebuyer” means any individual if such individual did not have a principal ownership interest in a principal residence in the District of Columbia in the one year period ending on the date of the purchase of the residence to which the credit applies.

Expiration date

The credit is scheduled to expire for residences purchased after December 31, 2000.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement provides for a one-year extension of the tax credit for first-time D.C. homebuyers, so that it applies to residences purchased on or before December 31, 2001.

Effective date.—The provision is effective for residences purchased after December 31, 2000 and before January 1, 2002.

L. Extend Expensing of Environmental Remediation Expenditures (sec. 179 of the Code)

Present Law

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A "qualified contaminated site" generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be eligible; (3) is owned by a corporation that has not been issued a tax return certification to the appropriate State environmental agency that it contains (or potentially contains) a hazardous substance (so-called “brownfields”); and (4) targeted areas are defined as: (1) empowerment zones and enterprise communities as designated under present law; (2) sites announced before February, 1997, as being subject to one of the 76 Environmental Protection Agency (EPA) brownfields Pilot; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Effective date.—The provision is for expenditures paid or incurred before January 1, 2001.

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, eliminates the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State agency.

Effective date.—The provision to expand the class of eligible sites is effective for expenditures paid or incurred after January 1, 1999.

Conference Agreement

The conference agreement extends present-law expiration date for sec. 198 to include those expenditures paid or incurred before January 1, 2001.

Effective date.—The provision to extend the expiration date is effective upon the date of enactment.

M. Temporary Increase in Amount of Rum Excise Tax That Is Covered Over to Puerto Rico and the U.S. Virgin Islands

Present Law

A $13.50 per proof gallon excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States. The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Internal Revenue Code provides for overcover (payment) of $10.50 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands. During the five-year period ending on September 30, 1999, the amount covered per proof gallon was $11.50 per proof gallon. This temporary increase was enacted in 1993 as transitional relief accompanying a reduction in certain tax benefits for corporations operating in those possessions.

Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasury of the two possessions for use as those possessions determine.

House Bill

No provision, but H.R. 984, as approved by the Committee on Ways and Means, increases from $10.50 to $13.50 per proof gallon the amount of excise taxes collected on rum brought into the United States that is covered over to Puerto Rico and the U.S. Virgin Islands.

Effective date.—The provision is effective for excise taxes collected on rum imported or produced in the United States and subsequently covered over to Puerto Rico and the Virgin Islands.

a A proof gallon is a liquid gallon consisting of 50 percent alcohol.
brought into the United States after June 30, 1999 and before the date of enactment.

Conference Agreement

The conference agreement reinstates the rum excise tax coverover at a rate of $13.25 per proof gallon during the period from July 1, 1999, through December 31, 2001.

The conference agreement includes a special rule for payment of the $2.75 per proof gallon rate in the coverover rate for Puerto Rico and the Virgin Islands. The special rule applies to payments that otherwise would be made in Fiscal Year 2000. Under this special payment rule, amounts attributable to the increase in the coverover rate that would have been transferred to Puerto Rico and the Virgin Islands after June 30, 1999 and before the date of enactment, will be paid on the date which is 15 days after the date of enactment. However, the total amount of this initial payment (aggregated for both possessions) may not exceed $20 million.

The next payment to Puerto Rico and the Virgin Islands with respect to the $2.75 increase in the coverover rate will be made on October 1, 2000. This payment will equal the total amount attributable to the increase that otherwise would have been transferred to Puerto Rico and the Virgin Islands before October 1, 2000 (less the payment of up to $20 million made 15 days after the date of enactment).

Payments for the remainder of the period through December 31, 2001 will be paid as provided under the present-law rules for the $10.50 per proof gallon coverover rate.

The special payment rule does not affect payments to Puerto Rico and the Virgin Islands with respect to the present-law $10.50 per proof gallon coverover rate.

Finally, the conferees note that H.R. 984 and H.R. 434, described above, will be considered by the Congress next year. The conference agreement includes that the special payment rule for Fiscal Year 2000 will be reviewed when the IRS makes the written determination publicly available, the background file documents associated with such written determination are available for public inspection upon written request, and defines "background file documents" as any written material submitted in support of the request. Background file documents also include any information from the written determination that determine the taxpayer's tax liability. Taxpayers voluntarily participate in the program.

To resolve the transfer pricing issues, the taxpayer submits detailed and confidential financial information, business plans and projections to the IRS for consideration. Resolution typically involves the analysis of the taxpayer's functions and risks. Since its inception in 1991, the APA program has resolved more than 180 APAs, and approximately 195 APA requests are pending for resolution.

Currently pending in the U.S. District Court for the District of Columbia are three consolidated lawsuits asserting that APAs are subject to public disclosure under either section 6110 or the FOIA. Prior to this litigation and since the inception of the APA program, the IRS held the position that APAs were confidential return information protected from disclosure by section 6103. On January 11, 1999, the IRS conceded that APAs are not protective by section 6110 or the FOIA.

Title 2003

A. Prohibit Disclosure of APAs and APA Background Files (secs. 6103 and 6110 of the Code)

Present Law

Section 6103

Under section 6103, returns and return information are confidential and cannot be disclosed unless authorized by the Internal Revenue Code.

The Code defines return information broadly. Return information includes:

- A taxpayer's identity, the nature, source or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments;
- Whether the taxpayer's return was, is being, or will be examined or subject to other internal processing procedure;
- Any other data received, by recorded by, prepared for, furnished to, or collected by the Secretary with respect to a return or with respect to returns or orders under section 6103, of which the existence, or possible existence, or liability of (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or otherwise;

Section 6110 and the Freedom of Information Act

With certain exceptions, section 6110 makes the text of any written determination the IRS issues on matters to be withheld. A written determination is any ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Once the IRS makes a written determination, the IRS must provide it to the taxpayer. The IRS must also make it publicly available, the background file documents associated with such written determination are available for public inspection upon written request, and defines "background file documents" as any written material submitted in support of the request. Background file documents also include any information from the written determination that determine the taxpayer's tax liability. Taxpayers voluntarily participate in the program.

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Title 2004

A. Prohibit Disclosure of APAs and APA Background Files (secs. 6103 and 6110 of the Code)
house have sought to participate as amici in the law­suits filed to roll back the release of APAs. They are concerned that release under section 6110 could expose them to expensive litigation to defend the deletion of the confidential information from their APAs. They are also concerned that release under section 6110 would be insufficient to protect the confidentiality of their trade secrets and other financial and commercial information.

House Bill
No provision, but H.R. 2923, as approved by the Committee on Ways and Means, amends section 6103 to provide that APAs and related background information are confidential under section 6110. Related background information is meant to include: the request for an APA, any material submitted in support of the request, and any communication (written or otherwise) prepared or received by the Secretary in connection with an APA, regardless of when such communication is prepared or received. Protection is not limited to agreements actually executed; it includes material received and generated in the APA process that does not result in an executed agreement.

Further, APAs and related background information are not “written determinations” as that term is defined in section 6106. Therefore, the public inspection requirements of section 6103 do not apply to APAs and related background information. A document’s incorporation in a background file, however, is not intended to be grounds for not disclosing an otherwise disclosable document from a source other than a background file. H.R. 2923 requires that the Treasury Department prepare and publish an annual report on the status of APAs. The annual report is to contain the following information:

Information about the structure, composition, and operation of the APA program office;

A copy of each current model APA;

Statistics regarding the amount of time to complete new and renewal APAs;

The number of APA applications filed during such year;

The number of APAs executed to date and for the year;

The number of APA applications filed during such year;

The number of APA renewals issued to date and for the year;

The number of pending APA requests;

The number of pending APA renewals;

The number of APAs executed and pending including renewals and renewal requests) that are unilateral, bilateral and multilateral, respectively;

The number of APAs revoked or canceled, and the number of withdrawals from the APA program, to date and for the year;

The number of finalized new APAs and renewals by industry; and

General description of the nature of the relationships between the related organizations, trades, or businesses covered by APAs;

the related organizations, trades, or businesses whose prices or results are tested to determine compliance with the transfer pricing methodology prescribed in the APA;

the causes and functions performed and risks assumed by the related organizations, trades or businesses involved;

methodologies used to evaluate tested parties and their relationships and the circumstances leading to the use of those methodologies; and

critical assumptions; sources of comparables;

comparable selection criteria and the rationale used in determining such criteria;

the nature of adjustments to comparables and/or tested parties;

the nature of adjustments ranged agreed to, including information such as whether no range was used and why, whether an inter-quartile range was used, or whether there was a statistical result on the comparables;

adjustment mechanisms provided to rectify results that fail outside of the agreed-upon APA range;

the various term lengths for APAs, including rollback years, and the number of APAs with each such term length;

the various term lengths for APAs, including rollback years, and the number of APAs with each such term length;

approaches for sharing of currency or other risks.

In addition, H.R. 2923 requires the IRS to describe, in each annual report, its efforts to ensure compliance with existing APA agreements. The first report is to cover the period January 1, 1991, through the calendar year 1994. Subsequent reports, subject to the approval of the Committee on Ways and Means, will cover subsequent five-year periods and shall be published no later than March 30, 2000.

Senate Amendment
No provision.

Conference Agreement
The conference agreement includes H.R. 2923.

B. Authority to Postpone Certain Tax-Related Deadlines by Reason of Year 2000 Failures

There are no specific provisions in present law that would permit the Secretary of the Treasury to postpone tax-related deadlines by reason of Year 2000 failures. The Secretary is, however, permitted to postpone certain tax-related deadlines by reason of Year 2000 failures. The Secretary may specify that certain deadlines are postponed for a period of up to 90 days in the case of a taxpayer that the Secretary determines has been affected by an actual Y2K related failure. In order to be eligible for relief, taxpayers must have made good faith, reasonable efforts to avoid any Y2K related failures. The relief will be similar to that granted under the Presidentially declared disaster and combat zone provisions, except that employment and withholding taxes also are eligible for relief. The relief will permit the abatement of both penalties and interest.

The relief may apply to the following acts: (1) filing of any return of income, estate, or gift tax; (2) payment of any income, estate, gift tax, including employment and withholding taxes; (2) payment of any income, estate, or gift tax, including employment and withholding taxes; (3) payment of any income, estate, or gift tax; (4) filing a claim for credit or refund of any tax; (5) giving or making any notice or demand for payment of any tax; (6) bringing suit upon any revenue laws specified or prescribed by the Secretary. The provision is effective on the date of enactment.

Senate Amendment
No provision.

Conference Agreement
The conference agreement includes the provision in H.R. 2923.

C. Add Certain Vaccines Against Streptococcus Pneumoniae to the List of Taxable Vaccines (secs. 4101 and 4132 of the Code)

A manufacturer’s excise tax is imposed at the rate of 75 cents per dose (sec. 4131) on the following vaccines recommended for routine administration to children: diphtheria, per­ 103

This information was previously released in IRS Publication 3218, “IRS Report on Application and Administration of I.R.C. Section 482.”
No provision. However, H.R. 2488 includes a provision to disregard any unexercised option to accelerate the receipt of any payment under a production flexibility contract which is payable under the FAIR Act, as in effect on the date of enactment of the provision, provided that the payment is properly included in gross income. Options to accelerate payments that are exercised before the date of enactment of this Act are not included in gross income.

**Present Law**

The conference agreement includes the provision in the conference agreement to H.R. 2488 that tax farmers are taxable in the year in which the amount is received.

**Effective date.**—The provision in H.R. 2488 is effective on the date of enactment of this Act.

**Senate Amendment**

No provision.

**Conference Agreement**

The conference agreement includes the provision in the conference agreement to H.R. 2488 that tax farmers are taxable in the year in which the amount is received.

**Present Law**

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer’s method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the “FAIR Act”) provides for production flexibility contracts between certain eligible owners and producers of crops. The contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government’s fiscal year. Sec. 112(d)(2) of the FAIR Act provides that these payments made under the 1996 Act be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.

The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year.

The conference agreement to H.R. 2488 includes a provision that the one-half of the annual payment must be made no later than September 30 of the fiscal year, at the option of the recipient.

**Present Law**

Excise taxes are imposed on highway motor fuels, including gasoline, diesel fuel, and kerosene, to finance the Highway Trust Fund.

**Effective date.**—The provision is effective for tax years beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children.

**Senate Amendment**

No provision. However, S. 1792, as passed by the Senate, delays the effective date of the dyed-fuel mandate for an additional six months, through December 31, 2000. No other changes are made to the present highway motor fuels tax rules.

**Conference Agreement**

The conference agreement includes S. 1792 with a modification delaying the effective date of the dyed-fuel mandate until January 1, 2001.

**Present Law**

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer’s method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

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The conference agreement to H.R. 2488 includes a provision that the one-half of the annual payment must be made no later than September 30 of the fiscal year, at the option of the recipient.

**Present Law**

Due to the Federal Vaccine Injury Compensation Program, which provides compensation to individuals who suffer certain injuries following administration of the vaccine. This program provides a substitute Federal, “no fault” insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers and physicians. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

**House Bill**

No provision.

**Effective date.**—The provision is effective for tax years beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children.

**Senate Amendment**

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**House Bill**

No provision.

**Effective date.**—The provision is effective for tax years beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children.

**Senate Amendment**

No provision.

**Effective date.**—The provision is effective on the date of enactment of this Act.

**Conference Agreement**

The conference agreement includes the provision in the conference agreement to H.R. 2488 that tax farmers are taxable in the year in which the amount is received.

**Present Law**

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer’s method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

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The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year.

The conference agreement to H.R. 2488 includes a provision that the one-half of the annual payment must be made no later than September 30 of the fiscal year, at the option of the recipient.

**Effective date.**—The provision is effective on the date of enactment of this Act.

**Senate Amendment**

No provision.

**Effective date.**—The provision is effective on the date of enactment of this Act.

**Conference Agreement**

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**Effective date.**—The provision is effective on the date of enactment of this Act.

**Senate Amendment**

No provision.

**Effective date.**—The provision is effective on the date of enactment of this Act.

**Conference Agreement**

The conference agreement includes the provision in the conference agreement to H.R. 2488 that tax farmers are taxable in the year in which the amount is received.

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The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year.

The conference agreement to H.R. 2488 includes a provision that the one-half of the annual payment must be made no later than September 30 of the fiscal year, at the option of the recipient.

**Effective date.**—The provision is effective on the date of enactment of this Act.
current year’s return or (2) 110 percent of the prior year’s tax for taxable years beginning before January 1, 2001.

For taxpayers with a prior year’s AGI above $150,000, the prior year’s tax must be based on 108.6 percent of prior year’s tax for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

House Bill
No provision, however H.R. 2923, as approved by the Committee on Ways and Means, provides that taxpayers with prior year’s AGI above $150,000 who make estimated tax payments based on prior year’s tax must do so based on 108.5 percent of prior year’s tax for estimated tax payments made for taxable year 2000.

Effective date.—The provision is effective for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

Conference Agreement
The conference agreement includes the provision in H.R. 2923 and the provision in S. 1792 with modifications. Taxpayers with prior year’s AGI above $150,000 who make estimated tax payments based on prior year’s tax must do so based on 106 percent of prior year’s tax for estimated tax payments made for taxable year 2000. Taxpayers with prior year’s AGI above $150,000 who make estimated tax payments based on prior year’s tax must do so based on 112 percent of prior year’s tax for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

Effective date.—The provision is effective for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

B. Clarify the Tax Treatment of Income and Losses on Derivatives (sec. 1221 of the Code)

Present Law
Capital gain treatment applies to gain on sales or exchanges of a capital asset. Capital assets include property other than (1) stock in trade or other types of assets includible in inventory; (2) property used in a trade or business; (3) property held as real property or property subject to depreciation; (4) accounts or notes receivable acquired in the ordinary course of a trade or business; (5) certain commodities; (6) certain derivative property; and (7) U.S. government publications. Gain or loss on such assets generally is treated as capital gain or loss. Certain other gains also are treated as gains or losses as ordinary. For example, the gains or losses of securities dealers or certain elected commodities dealers or electing traders in partnerships or other entities, in market-to-market accounting, are treated as ordinary income. Treasury regulations (which were finalized in 1995) require ordinary character treatment for most business hedges and provide timing rules requiring that gains or losses on hedging transactions be taken into account in a manner that matches the income or loss from the hedged item or items. The regulations apply to hedges that meet a standard of ‘‘risk reduction’’ with respect to ordinary property. The Treasury regulations define ‘‘risk reduction’’ and modify the rules. The ‘‘risk reduction’’ standard of the regulations is broadened to ‘‘risk management’’ with respect to ordinary property (or to be held) or certain liabilities incurred (or to be incurred) by the taxpayer and that meet certain identification and other requirements (Treas. Reg. sec. 1.1221–2).

House Bill
No provision.

Senate Amendment
No provision, but S. 1792, as passed by the Senate, adds three categories to the list of assets the gain or loss on which is treated as ordinary income. The new categories are: (1) commodities derivative financial instruments held by commodities derivative dealers; (2) hedging transactions; and (3) supplies purchased on a type of transaction by the taxpayer in the ordinary course of a taxpayer’s trade or business. In defining a hedging transaction, S. 1792 generally codifies the approach taken by the Treasury regulations, but modifies the rules. The ‘‘risk reduction’’ standard of the regulations is broadened to ‘‘risk management’’ with respect to ordinary property held (or to be held) or certain liabilities incurred (or to be incurred), and S. 1792 provides that the definition of a hedging transaction includes a transaction entered into in order to manage the risk of gain or loss (or potential gain or loss) from the hedged item or items. The regulations provide that certain other risks as the Secretary may prescribe may be disregarded in regulations.

Effective date.—The provision in S. 1792 is effective for any instrument held, acquired or entered into, any transaction entered into, and supplies held or acquired on or after the date of enactment.

Conference Agreement
The conference agreement includes the provision passed by the Senate.

C. Expand Reporting of Cancellation of Indebtedness Income (sec. 6050P of the Code)

Present Law
Under section 6050P, a taxpayer’s gross income includes income from the discharge of indebtedness. Section 6050P requires ‘‘ap- plicable entities’’ to file information returns with the Internal Revenue Service (IRS) regarding any discharge of indebtedness of $600 or more. The information return must set forth the name, address, and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, the date on which the debt was discharged, and any other information that the IRS requires to be provided. The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the date of discharge.

‘‘Applicable entities’’ include: (1) the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), the Federal Home Loan Mortgage Corporation (FHLMC), and any successor or subunit of any of them; (2) any financial institution (as defined in section 3901 (relating to banks) or section 591(a) (relating to certain insurance institutions); (3) any credit union; (4) any corporation that is a direct or indirect subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such an entity, is subject to examination and examination by a Federal or State agency regulating such entities; and (5) an executive, judicial, or legislative agency (as defined in section 3701 (a)(4)).

House Bill
No provision.

Senate Amendment
No provision, but S. 1792, as passed by the Senate, requires applicable entities subject to discharge of indebtedness by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions). The provision is effective with respect to discharges of indebtedness after December 31, 1999.

Conference Agreement
The conference agreement includes the provision in S. 1792.

D. Limit Conversion of Character of Income (Constructive Ownership Transactions (new sec. 1290 of the Code))

Present Law
The maximum individual income tax rate on ordinary income and short-term capital gain is 39.6 percent, while the maximum individual income tax rate on long-term capital gain generally is 20 percent. Long-term capital gain means gain from the sale or exchange of a capital asset held more than one year. For this purpose, gain from the termination of a right with respect to property which would be a capital asset in the hands of the taxpayer is treated as ordinary income, short-term capital gain, or long-term capital gain depending on the character of the entity with respect to such property.

A pass-through entity (such as a partnership) generally is not subject to Federal income tax. Rather, each owner includes its share of the pass-through entity’s income, gain, loss, deduction or credit in its taxable income. Generally, the character of the item is determined at the entity level and flows through to the owners. Thus, for example, the treatment of an item of income by a partnership as ordinary income, short-term capital gain, or long-term capital gain retains its character when reported by each of the partners.

Investors may enter into forward contracts, notional principal contracts, and other similar arrangements with respect to property that provides the investor with the same or similar economic benefits as owning the property directly but with potentially different tax consequences (as to the character and timing of any gain).

House Bill
No provision.

Senate Amendment
No provision, but S. 1792, as passed by the Senate, requires applicable entities subject to discharge of indebtedness by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).
The long-term capital gains resulted from a deemed ownership of the financial asset. The long-term capital gain under section 1(h) is limited to the amount of such gain the taxpayer would have realized if the taxpayer held the financial asset directly during the term of the derivative contract. Any gain in excess of the amount of the net capital gain the taxpayer would have realized if the taxpayer held the financial asset directly is treated as ordinary income. An interest charge is imposed on the amount of gain that is treated as ordinary income. The provision does not alter the tax treatment of the long-term capital gain that is not treated as ordinary income.

A taxpayer is treated as having entered into a constructive ownership transaction if the taxpayer (1) holds a long position in a notional principal contract with respect to the financial asset, (2) enters into a forward contract to acquire the financial asset, (3) is the holder of a call option, and the grantor of a put option, with respect to a financial asset, and the options have substantially equal strike prices and substantially contemporaneous maturity dates, or (4) to the extent provided in regulations, enters into one or more transactions, or acquires one or more positions, that have substantially the same effect as replicating the economic benefits of direct ownership of a financial asset without a significant change in the risk-reward profile with respect to the underlying transaction.

A "financial asset" is defined as (1) any equity or interest in a pass-thru entity, and (2) to the extent provided in regulations, any debt instrument and any stock in a corporation that is not a pass-thru entity. A "pass-thru entity" includes an investment company that is not a pass-thru entity. A "pass-thru entity includes (1) a regulated investment company, (2) a real estate investment trust, (3) a real estate mortgage investment conduit, (4) an S corporation, (5) a partnership, (6) a trust, (7) a common trust fund, (8) a foreign investment company, (9) a foreign personal holding company, and (10) a foreign investment company.

The amount of recharacterized gain is calculated as the excess of the amount of long-term capital gain the taxpayer would have had absent this provision over the "net underlying long-term capital gain" attributable to the financial asset. The net underlying long-term capital gain is the amount of net capital gain that would have been realized if the taxpayer had acquired the financial asset for its fair market value on the date the constructive ownership transaction was opened and sold or closed on the date the transaction was closed (only taking into account gains and losses that would have resulted from a deemed ownership of the financial asset). The long-term capital gains rate on the net underlying long-term capital gain is determined by reference to the individual capital gains rates in section 1(h).

Example 1: On January 1, 2000, Taxpayer enters into a three-year notional principal contract (a constructive ownership transaction) with a securities dealer whereby, on the settlement date, Taxpayer (1) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on the financial asset for the term of the contract, and (2) is obligated to reimburse (or provide credit for) all or substantially all of any decline in the value of the financial asset. A forward contract is a contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

If the constructive ownership transaction is closed by reason of delivery of the underlying financial asset, the taxpayer is treated as having sold the contract, option, or other position that is part of the transaction for its fair market value on the closing date. However, the amount of gain that is recognized as a result of having taken delivery is limited to the amount of gain that is treated as ordinary income by reason of this provision (with appropriate basis adjustments for such gain).

The provision does not apply to any constructive ownership transaction if all of the positions that are part of the transaction are marked to market under the Code or regulations. The Treasury Department is authorized to prescribe regulations as necessary to carry out the purposes of the provision, including to (1) permit taxpayers to mark to market constructive ownership transactions in lieu of the provision, and (2) exclude certain forward contracts that do not convey substantially all of the economic return with respect to a financial asset.

No inference is intended as to the proper treatment of a constructive ownership transaction entered into prior to the effective date of this provision.

Effective date.—The provision applies to transactions entered into on or after July 12, 1999. For this purpose, a contract, option, or any other arrangement that is entered into prior to such date is treated as a transaction entered into on or after July 12, 1999.

Conference Agreement

The conference agreement includes the provision in S. 1792 with a clarification regarding the effective date. The provision applies to transactions entered into on or after July 12, 1999. For this purpose, it is expected that a contract, option or any arrangement that is entered into or exercised on or after July 12, 1999, that extends or otherwise modifies the term of the transaction entered into prior to such date will be treated as a transaction entered into on or after July 12, 1999, unless a party to the transaction other than the taxpayer has, as of July 12, 1999, the exclusive right to extend the term of the transactions, and the length of such extension does not exceed the first business day following a period of five years from the original termination date under the transaction.

E. Treatment of Excess Pension Assets Used for Retiree Health Benefits (secs. 420 of the Code, and secs. 101, 403, and 408 of ERISA)

Present Law

Defined benefit pension plan assets generally are not treated as income or gain or loss prior to the termination of the plan and the satisfaction of all plan liabilities. A reversion prior to the plan's termination is a prohibited transaction. A prohibited transaction and may result in disqualification of the plan. Certain limitations and procedural requirements apply to a reversion of excess plan assets, including to (1) permit taxpayers to mark to market constructive ownership transactions, (2) enter into a constructive ownership transaction if all of the definitions of a tax-exempt entity, as a real estate mortgage investment conduit, an investment company, a regulated investment company, and a trust, or (3) provide or receive credit for the future value of a financial asset. A forward contract is a contract to acquire in the future (or provide or receive credit for the future value of) any financial asset. A pension plan may provide medical benefits to retired employees through a section 401(h) account that is a part of such plan. A qualified transfer of excess assets of a defined benefit pension plan (or a multiemployer plan) into a section 401(h) account that is a part of such plan does not result in plan disqualification and is not treated as a prohibited transaction. Therefore, the transferred assets are not includable in the gross income of the employer and are not subject to the excise tax on reversions. Qualified transfers are subject to amount and frequency limitations, use requirements, deduction limitations, vesting requirements, and minimum benefit requirements. Excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. More than one qualified transfer plan and a multiemployer plan may be required to an employee who is entitled to receive retiree medical benefits through the section 401(h) account. Only retirees who are not entitled to retiree health care benefits through the section 401(h) account may receive benefits from the section 401(h) account. The section 401(h) account may not be paid directly or indirectly out of transferred assets. Amounts

The accrual rate is the applicable Federal rate on the day the transaction closed.
not used to pay qualified current retiree health liabilities in the taxable year of the transfer are to be returned at the end of the taxable year to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversions and are subject to a 20-percent excise tax.

No deduction is allowed for (1) a qualified transfer on assets to section 401(h) account, (2) the payment of qualified current retiree health liabilities out of transferred assets (and any income thereon) or (3) any amount not included in the applicable cost requirement that applied to qualified current retiree health liabilities to the general assets of the pension plan.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer.

The minimum benefit requirement requires each group health plan under which applicable health benefits are provided to provide substantially the same level of applicable health benefits during the years that the benefit maintenance period of the qualified transfer overlaps the taxable year of the transfer. Applicable health benefits are health benefits or coverage that are provided to (1) retirees who, immediately before the transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan and (2) the spouses and dependents of such retirees.

The provision permitting a qualified transfer of excess pension assets to pay qualified current retiree health liabilities expires for taxable years beginning after December 31, 2000.28

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, provides that the present-law permiting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account after December 31, 2000, and before January 1, 2006, the minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer that occurs after the date of enactment, for example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002.

The conference agreement extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through December 31, 2005.29 The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. The Secretary of the Treasury is directed to prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement. In addition, the conference agreement provides a transition rule regarding the minimum cost requirement.

Conference Agreement

The conference agreement extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through December 31, 2005.30 The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002.

Effective date—The conference agreement is effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before January 1, 2006. The conference agreement also provides that the minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002.

An accrual method taxpayer is generally required to recognize income when all the events have occurred that fix the right to the receipt of the income and the amount of the income can be determined with reasonable accuracy. The installment method of accounting provides an exception to this general principle of income recognition by allowing the taxpayer to use an installment sale method of income from the disposition of certain property until payment is received. Sales to customers in the ordinary course of business are not eligible for the installment method, except for sales of property that is used or produced in the trade or business of farming and sales of timeshares and residential lots if an election to pay interest under section 453(l)(2)(B) is made.

The pledge rule provides that if an installment obligation is placed as security for any indebtedness, the net proceeds31 of such indebtedness are treated as a payment on the obligation, triggering the recognition of income. Actual payments received on the installment obligation subsequent to the receipt of the loan proceeds are not taken into account until such subsequent payments exceed the payments of interest and principal. The pledge rule does not apply to sales of property used or produced in the trade or business of farming, sales of timeshares, and sales of residential lots. The pledge rule requires the payment of interest on the deferred tax that is attributable to most large installment sales.

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, generally prohibits the use of the installment method of accounting for dispositions of property that are reported for Federal income tax purposes using an accrual method of accounting and modifies the installment sale pledge rule to provide for the accidental entry into an arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct installment obligation.

Prohibition on the use of the installment method for accrual method dispositions

S. 1792 generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be treated as a sale under the installment method.
be reported for Federal income tax purposes using an installment method. The provision does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming. The provision does not change present law regarding the availability of the installment method for dispositions of timeshares or residential lots by the taxpayer elects to pay tax interest under section 453(1).

The provision does not change the ability of a cash method taxpayer to use the installment method. For example, a cash method individual owns all of the stock of a closely held accrual method corporation. This individual sells his stock for cash, a ten year note, and a percentage of the gross revenues of the company for next ten years. The provision does not change the ability of this individual to use the installment method in reporting the gain on the sale of the stock.

Modifications to the pledge rule

S. 1792 modifies the pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note. For example, a taxpayer disposes of property for an installment note. The disposition is properly reported using the installment method. The taxpayer only recognizes gain as it receives the deferred payment. However, the taxpayer to pledge the installment note as security for a loan, it would be required to treat the proceeds of such loan as a payment on the installment note, and recognize the appropriate amount of gain. Under the provision, this would also be required to treat the proceeds of a loan as payment on the installment note to the extent the taxpayer had the right to “put” or repay the loan by transferring the installment note to the taxpayer’s creditor. Other arrangements that have a similar effect would be treated in the same manner.

The modification of the pledge rule applies only to installment sales where the pledge rule of present law applies. Accordingly, the provisions issued by an insurance company, a person is not considered to be a recipient of an annuity or endowment contract (as defined in section 664(d)) that holds a life insurance contract (as required by clause (iii) of subparagraph (d)(3)) of being a recipient of an annuity or endowment contract, if, for example, the person receives or will receive any economic benefit as a result of the contract. The provision is not intended to affect situations in which an organization purchases premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of an annuity paid under the contract. For this purpose, as described below, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m)).

In the case of a charitable gift annuity, if the charitable organization purchases an annuity contract issued by an insurance company to fund its obligation to pay the charitable gift annuity, a person receiving payments under the charitable gift annuity is not treated as an indirect beneficiary provided certain requirements are met. The requirements are that (1) the charitable organization possesses all of the incidents of ownership within the meaning of Rev. Reg. sec. 20.2042-1(c)(1) under the annuity contract purchased by the charitable organization; (2) the charitable organization be entitled to all the payments under the contract; and (3) the timing and amount of payments under the contract be substantially the same as the timing and amount of payments to each person under the organization’s obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

Under the provision, an individual’s family consists of the individual’s grandparents, the grandparents of the individual’s spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

In the case of a charitable gift annuity obligation that is issued under the laws of a State that requires, in order for the charitable gift annuity to qualify for the insurance regulation by that State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract purchased by an insurance company authorized to transact business in that State, then the foregoing requirements (1) and (2) are treated as if they are met, provided that certain additional requirements are met. The additional requirements are that the State law requirement was in effect on February 8, 1999, each beneficiary under the charitable gift annuity is a bona fide resident of the State at the time the charitable gift annuity was issued, the only persons entitled to payments under the annuity contract issued by the insurance company are persons entitled to payments under the charitable gift annuity when it was issued, and (as required by clause (ii) of subparagraph (D) of the provision) the timing and amount of payments under the annuity contract to each person are substantially the same as the timing and amount of payments to the person under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable remainder annuity trust (as defined in section 664(d)(1) that holds a life insurance, endowment or annuity contract issued by an insurance company, a person is not an indirect beneficiary under the contract held by the trust, solely by reason of being a recipient of an annuity or
untrust amount paid by the trust, provided that the trusts are all of the kinds of ownership under the contract and is entitled to all the payments under such contract. No inference is intended as to the applicability of provisions of the Code with respect to the acquisition by the trust of a life insurance, endowment or annuity contract, or the appropriateness of such an investment by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax on the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax equal to the amount of premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The provision applies to all transfers after February 8, 1999 (as provided by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a permitted contract, solely because an individual who is a recipient of an annuity or untrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust paid by a charitable remainder unitrust trust or charitable remainder unitrust contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.
or, if the corporate partner does not control the distributing corporation at that time, then at the time the corporate partner first has such control. The provision does not apply to any distribution if the corporate partner does not have control of the distributing corporation at any time before the distribution and establishes that the distribution was not part of a plan or arrangement to acquire control.

For purposes of the provision, if a corporation acquires (other than in a distribution from a partnership) stock of a corporation that is part of a plan or arrangement of being distributed from a partnership in whole or in part by reference to section 732(a)(2) or (b), the corporation is treated as receiving a distribution of stock from a partnership. For example, if a partnership distributes property other than stock (such as real estate) to a corporate partner, and that corporate partner contributes the real estate to another corporation in a section 351 transaction, then the stock received in the section 351 transaction is not treated as distributed by a partnership that was subject to the provisions of section 732 at the time the stock was distributed, and thus the provision does not apply. As another example, if a partnership distributes stock to two corporate partners, neither of which has control of the stock, the two corporate partners merge and the survivor obtains control of the distributed corporation, the stock of the distributed corporation that is acquired as a result of the merger is treated as received in a partnership distribution; the basis reduction rule of the provision applies.

In the case of tiered corporations, a special rule provides that if the property held by a distributed corporation is stock in a corporation that the distributed corporation controls, the basis of the property is the basis of the property in the corporation that controlled the corporation. The provision is also reapplied to any property of any controlled corporation that is stock in a corporation that it controls. Thus, for example, if stock of a controlled corporation is distributed to a corporate partner, and the controlled corporation is subsequently acquired by a new corporation, the basis reduction allocable to stock of the subsidiary is applied again to reduce the basis of the assets of the subsidiary, under the special rule.

The provision also provides for regulations, including regulations to avoid double counting and to prevent the abuse of the purposes of the provision. It is intended that regulations prevent the avoidance of the purposes of the provision through the use of tiered partnerships.

**Effective date**

The provision is effective for distributions made after July 14, 1999, except that in the case of a corporation that is a partner in a partnership on July 14, 1999, the provision is effective for distributions by the partnership to the corporate partner after the date of enactment and before July 1, 2001, the rule of the preceding sentence does not apply unless that partner makes an election to have the distribution treated as if the distribution were of the partner’s return of Federal income tax for the taxable year in which the distribution occurs.

No inference is intended that distributions that are subject to the provision achieve a particular tax result under present law, and no inference is intended that enactment of the provision limits the application of tax rules or principles under present or prior law.

### 1. Treatment of Real Estate Investment Trusts (REITs)

#### A. Generally

A real estate investment trust ("REIT") is an entity that receives most of its income from passive real-estate related investments and that essentially receives pass-through treatment for income that is distributed to shareholders.

If an electing entity meets the requirements of the provision for its income (other than in a distribution to the electing entity of its income from passive sources and not engage in any active trade or business. A REIT must satisfy a number of tests on a year-by-year basis that relate to the entity's (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income. Under the source-of-income test, at least 95 percent of gross income generally must be derived from real property, dividends, interest, and certain other passive sources (the "95 percent test"). Under the asset test, at least 75 percent of the gross income generally must be from real estate sources, including rents from real property and interest on mortgages secured by real property, as well as the services are furnished through an independent contractor from whom the REIT does not derive any income. Amounts received for services that are "customarily furnished or rendered" in connection with the rental of real property, as well as the services are furnished through an independent contractor from whom the REIT does not derive any income.

Rent from real property do not include rents for personal property leased in connection with real property are treated as rents from real property if the adjusted basis of the personal property does not exceed 15 percent of the aggregate adjusted bases of the real and the personal property.
earnings and profits of a real estate investment trust.\(^{38}\)

No provision.

**Senate Amendment**

No provision, but S. 1792, as passed by the Senate, provides as follows:

**Investment limitations and taxable REIT subsidiaries**

**General rule.**—Under the provision, a REIT generally cannot own more than 10 percent of the total value of securities of a single issuer, in addition to the present law rule that a REIT cannot own more than 10 percent of the outstanding voting securities of a single issuer. In addition, no more than 20 percent of the value of a REIT's assets can be represented by securities of the taxable REIT subsidiaries that are permitted under the bill.

**Exception for safe-harbor debt.**—For purposes of the new 10 percent value test, securities are generally defined to exclude safe harbor debt owned by a REIT (as defined for purposes of section 1391) and the issuer is an individual, or if the REIT (and any taxable REIT subsidiary of such REIT) owns no other securities of the issuer. However, in the case of a REIT that owns securities of a partnership, safe harbor debt is excluded from the definition of securities only if the REIT owns at least 20 percent or more of the profits interest in the partnership.

The purpose of the partnership rule requiring a 20 percent profits interest is to assure that if the partnership produces income that would be disqualified income to the REIT, the REIT will be treated as receiving a significant portion of that income directly through its partnership interest, even though the REIT may only derive qualified interest income through its safe harbor debt interest.

**Exception for taxable REIT subsidiaries.**—An exception to the limitations on ownership of securities of a single issuer applies in the case of a "taxable REIT subsidiary" that meets certain requirements. To qualify as a taxable REIT subsidiary, both the REIT and the subsidiary corporation must join in an election. In addition, any corporation (other than a REIT or a qualified REIT subsidiary under section 1060) that does not elect with the REIT to be a taxable REIT subsidiary (of which a taxable REIT subsidiary owns, directly or indirectly, more than 35 percent of the vote or value) is automatically treated as a taxable REIT subsidiary.

**Securities.** (as defined in the Investment Company Act of 1940) of taxable REIT subsidiaries could not exceed 20 percent of the total value of a REIT's assets.

A taxable REIT subsidiary can engage in certain business activities that under present law could disqualify the REIT because, but for the proposal, the taxable REIT subsidiary's activities and relationship with the REIT would not be considered income from qualifying as rents from real property. Specifically, the subsidiary can provide services to tenants of REIT property (even if such services were not considered services customarily furnished in connection with the rental of real property), and can manage or operate properties, generally for third parties, to the extent the tenant has not elected with the REIT to be a taxable REIT subsidiary (of which a taxable REIT subsidiary owns, directly or indirectly, more than 35 percent of the vote or value) is automatically treated as a taxable REIT subsidiary.

**Provision regarding rental income from certain personal property**

The provision modifies the present law rule that permits certain rents from personal property to be treated as rental income if such personal property does not exceed 15 percent of the aggregate of real and personal property. The provision replaces the present law comparison of the adjusted bases of properties with a comparison based on fair market values.

**Effective date.**—The provision is effective for taxable years beginning after December 31, 2000. The provision with respect to modification of earnings and profits rules is effective for distributions after December 31, 2000. In the case of the provisions permitting use of permitted ownership of securities of an issuer, special transition rules apply. The new rules forbidding a REIT to own more than 10 percent of the stock of a single issuer do not apply to a REIT with respect to securities held directly or indirectly by the REIT or in exchange for such grandfathered securities would be grandfathered. The grandfathering of such securities ceases to be effective if the REIT acquires additional classes of that issuer after that date, other than pursuant to a binding contract in effect on that date.

\(^{38}\)Treas. Reg. sec. 1.857-11(c).

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**November 17, 1999**

**Health Care REITS**

The provision permits a REIT to own and operate a health care facility for at least two years, and treat it as permitted "foregoing" the 10 percent asset test, if required by the termination or expiration of a lease of the property. Extensions of the 2 year period can be granted.

**Conformity with regulated investment company rules**

Under the provision, the REIT distribution requirements are modified to conform to the rules for regulated investment companies. Specifically, a REIT is required to distribute at least 90 percent, rather than 95 percent, of its income.

**Definition of independent contractor**

If any class of stock of the REIT or the person being tested as an independent contractor is regularly traded on an established securities market, only persons who directly or indirectly own 5 percent or more of such class of stock shall be counted in determining whether the 35 percent ownership limitations have been exceeded.

**Modification of earnings and profits rules for RICs and REITs**

The rule allowing a RIC to make a distribution after a determination that it had failed to meet the requirements of a permissible non-RIC earnings and profits of such RIC, is modified to clarify that, when the sole reason for the determination was that the RIC had failed to make all non-RIC earnings and profits in the initial year (i.e. because it was determined not to have distributed all its C corporation earnings and profits), the procedure would apply to permit the RIC qualification in the initial year to which such determination applied, in addition to subsequent years.

**The RIC earnings and profits rules are also modified to provide an exception similar to the REIT rule, treating a distribution to meet the requirement of no non-RIC earnings and profits as coming first from the earliest earnings and profits accumulated in any year for which the RIC did not qualify as a RIC. In addition, the RIC deficiency dividend rules are modified to take account of this ordering rule.**
date and at all times thereafter, or in a reorganization with an electing corporation the securities of which are grandfathered.

This transition also ceases to apply to securities of a corporation as of the first day after July 12, 1999, to which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than pursuant to a binding contract in effect on such date and at all times thereafter, or in a reorganization or transaction in which gain or loss is not recognized by reason of section 1631 or 1633 of the Code. If a corporation makes an election to become a taxable REIT subsidiary, effective before January 1, 2004 and at the time the REIT’s ownership is grandfathered under these rules, the election is treated as a reorganization under section 368(a)(1)(A) of the Code.

The new 10 percent of value limitation for purposes of defining qualified rents is effective for taxable years beginning after December 31, 2000. There is an exception for rents paid under a lease or pursuant to a binding contract, effective on July 12, 1999 and at all times thereafter.

Conference Agreement

The conference agreement includes the provision in S. 1792. The conference agreement clarifies the RIC and REIT earnings and profits ordering rules in the case of a distribution to meet the requirements that there be no non-RIC or non-REIT earnings and profits in any year.

Both the RIC and REIT earnings and profits rules are modified to provide a more specific ordering rule, similar to the present-law REIT rule. The new ordering rule treats a distribution to meet the requirement of non-RIC or non-REIT earnings and profits as coming, on a first-in, first-out basis, from earnings and profits which, if not distrib-
III. Revenue Offset Provisions

A. Modify Individual Estimated Tax Safe Harbor to 106.6% for Tax Year 2000 and 110.0% for Tax Year 2001.
B. Clarify the Tax Treatment of Income and Losses from Derivatives.
C. Information Reporting on Cancellation of Indebtedness by Non-Bank Financial Institutions.
D. Prevent the Conversion of Ordinary Income or Short-Term Capital Gains into Income Eligible for Long-Term Capital Gain Rates.
E. Allow Employers to Transfer Excess Defined Benefit Plan Assets to a Special Account for Health Benefits of Retirees (through 12/31/00).
F. Impose 10% vote or value test for taxable REIT subsidiaries, provided by taxable REIT subsidiaries, with 20% asset limitation.
G. Clarification of definition of independent operators for REITs.
I. Extension of credit effective for expenses incurred after 6/30/99; increase in AIC rates effective for taxable years beginning after 6/30/99; expansion of the credit to include U.S. possessions effective for expenditures paid or incurred after 6/30/99.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

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<td>D. Delay the Requirement that Registered Motor Fuels Terminals Offer Dyed Products as a Condition of Registration (through 12/31/00).</td>
<td>DOE</td>
</tr>
<tr>
<td>E. Provide that Federal Farm Production Payments are Taxable in the Year of Receipt.</td>
<td>DOE</td>
</tr>
<tr>
<td>Total of Other Time-Sensitive Revenue Provisions.</td>
<td></td>
</tr>
</tbody>
</table>

Net total: 2,994 1,640 2,175 413 206 120 87 40 32 11 2,596 2,894

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. Dreier) at 3 o’clock and 5 minutes a.m.