

CBO Disability and Health Estimates  
H.R. 1180: Ticket to Work and Work Incentives Improvement Act  
Conference Agreement  
(In millions; revenues/savings(-); costs (+))

Proposal	FY										Total FY00-04	Total Y05-09	Total FY00-09
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009			
<b>ON- &amp; OFF-BUDGET SUMMARY</b>													
On-Budget Total	16	40	87	110	139	134	152	159	161	167	392	773	1,165
Off-Budget Total	-15	-36	-29	-15	-16	-22	-48	-54	-54	-54	-111	-232	-343
<b>ON- &amp; OFF-BUDGET TOTAL</b>	<b>1</b>	<b>4</b>	<b>58</b>	<b>95</b>	<b>123</b>	<b>112</b>	<b>104</b>	<b>105</b>	<b>107</b>	<b>113</b>	<b>281</b>	<b>541</b>	<b>822</b>
<b>CHANGES TO FILL FUNDING GAP</b>													
<b>Option 1: Medicare Only</b>													
- Medicare Secondary Payer	0	0	-100	-100	-100	-100	-100	-200	-200	-200	-300	-800	-1,100
Subtotal	0	0	-100	-100	-100	-100	-100	-200	-200	-200	-300	-800	-1,100
<b>Option 2: Medicare/Food/SSI mix</b>													
- Medicare Partial Hospitalization	-7	-16	-17	-17	-18	-19	-20	-21	-22	-23	-75	-105	-180
- Medicare OPD Capital Reduction Exten.	-250	0	0	0	0	0	0	0	0	0	-250	0	-250
- 12% Commodity in 2006	0	0	0	0	0	0	-55	-55	-55	-55	0	-220	-220
- SSI State Supp Timing Shift in 2006	0	0	0	0	0	0	-260	0	0	0	0	-260	-260
Subtotal	-257	-16	-17	-17	-18	-19	-335	-76	-77	-78	-325	-585	-910
<b>Option 3: Medicaid/EITC/Food mix</b>													
- Medicaid generic drugs -- start in 2004	0	0	0	0	-45	-55	-60	-65	-70	-80	-45	-330	-375
- EITC Clarify Foster Child Def.	-2	-31	-33	-33	-34	-34	-35	-35	-36	-36	-133	-176	-309
- 12% Commodity in 2003	0	0	0	-55	-55	-55	-55	-55	-55	-55	-110	-275	-385
Subtotal	-2	-31	-33	-88	-134	-144	-150	-155	-161	-171	-288	-781	-1,069
<b>Option 4: Food/EITC</b>													
- 12% Commodity		-55	-55	-55	-55	-55	-55	-55	-55	-55	-220	-275	-495
- EITC Clarify Foster Child Def.	-2	-31	-33	-33	-34	-34	-35	-35	-36	-36	-133	-176	-309
- SSI State Supp Timing Shift in 2006	0	0	0	0	0	0	-260	0	0	0	0	-260	-260
- Delay Medicaid Buy in > 250	-10	0	-2	-1	-1	-1	-2	-1	-2	-2	-14	-8	-22
- Food Stamps Immigrants Elderly	10	15	15	15	15	15	15	15	15	15	70	75	145
Subtotal	-2	-71	-75	-74	-75	-75	-337	-76	-78	-78	-297	-644	-941
<b>Option 5: More Food/Delay EITC</b>													
- 12% Commodity	0	-55	-55	-55	-55	-55	-55	-55	-55	-55	-220	-275	-495
- EITC Foster Child Starting in 2005	0	0	0	0	0	-2	-31	-33	-33	-34	0	-133	-133
- SSI State Supp Timing Shift in 2006	0	0	0	0	0	0	-260	0	0	0	0	-260	-260
- Food Stamps E&T	-72	-84	-7	0	0	0	0	0	0	0	-163	0	-163
- Food Stamps Immigrants Elderly	10	15	15	15	15	15	15	15	15	15	70	75	145
Subtotal	-62	-124	-47	-40	-40	-42	-331	-73	-73	-74	-313	-593	-906

Final 10/14/99 11:45 am  
Sam Afridi

Jeffords -  
Kennedy

**PRESIDENT WILLIAM J. CLINTON**  
**RADIO ADDRESS ON EXPANDING OPPORTUNITIES FOR**  
**AMERICANS WITH DISABILITIES**

*October 16, 1999*

Good morning. Today, I want to talk about what we must do to make sure people with disabilities who are ready, willing and able to work can be a part of our nation's prosperity.

Work is an important part of who we are as Americans. It connects us with our communities and provides dignity for our families. And today, more Americans are working than ever before. We've created more than 19 million new jobs in the last six and a half years and unemployment is at a 29-year low.

In spite of the good economic news, almost three out of four Americans with severe disabilities who want to work are not working. That's not just a missed opportunity for Americans with disabilities. It's a missed opportunity for America.

If we want to keep our economy growing with continued low inflation and low unemployment, we must draw on the untapped potential of our people. We can strengthen core values like fairness and dignity while we strengthen our economy.

That's why I established a Presidential Task Force on the Employment of Adults with Disabilities last year to help remove the barriers that prevent people with disabilities from going to work. In December, Vice President Gore received the first set of recommendations by the Task Force—and I'm proud to say that we've taken action on every one.

The budget I proposed last January would invest more than \$2 billion in health care, tax credits and new technologies for people with disabilities. I also signed an executive order to eliminate unfair employment barriers for people with psychiatric disabilities in the federal government.

Today, I am announcing new steps that I am taking to ensure that when it comes to the employment of people with disabilities, the federal government leads by example. Today, I am releasing the first-ever government plan to ensure positive career paths for people with disabilities in the federal workforce.

I am directing every federal agency and department to take concrete action to expand opportunities for people with disabilities in all levels of the federal workforce—from the entry level to the senior ranks. And I am calling on all agencies to recruit and promote people with disabilities, reach out to students with disabilities, and provide reasonable accommodations for applicants and employees with disabilities.

I am also calling on our federal human resources agency—the Office of Personnel Management—to ensure that every agency gets the help it needs to fulfill these commitments. The federal government is the nation’s largest employer—I want it to be a model for private industry. This plan will help do just that.

But there’s more we must do together to tackle the challenge. One of the biggest barriers facing people with disabilities is the fear of losing their health insurance when they get a job. Under current law, many people with disabilities cannot keep their Medicaid or Medicare coverage if they work—creating a tremendous disincentive to work.

There’s a common sense bipartisan bill to change that. It’s called the Work Incentives Improvement Act and it was sponsored by Republican Senators Jeffords and Roth and Democratic Senators Kennedy and Moynihan. It will make sure that people with disabilities don’t lose their health care when they gain a job.

The legislation passed the Senate 99 to zero. A bipartisan majority in the House has already cosponsored it. I say to Congress: don’t water that bill down; guarantee its financing. If you finish the job and send me that bill--I’ll sign it. Americans with disabilities who want to work shouldn’t have to wait one more day.

After years of delay, the House of Representatives finally heard the voice of the American people and passed a strong, enforceable Patients’ Bill of Rights. By choosing progress over partisanship, we can also pass the Work Incentives Improvement Act and keep America working.

The time for action in this Congress is quickly running out. I urge the leadership to seize this opportunity. Make this a season of progress—not a winter of politics. Let’s finish the job the American people sent us here to do.

Thanks for listening.

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THE SECRETARY OF HEALTH AND HUMAN SERVICES  
WASHINGTON, D.C. 20201

OCT 14 1999

The Honorable Bill Archer  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Archer:

The Department of Health and Human Services (HHS) would like to thank you for bringing the Ticket to Work and Work Incentives Improvement Act up for a vote. This bill gives hope to people with disabilities who are not working by providing them with the opportunity to enter the work force, end their dependence on cash assistance, and pay taxes.

The bipartisan, overwhelming support enjoyed by the Work Incentives Improvement Act to date reflects Congress's understanding of the importance of coupling return-to-work programs with health insurance options for people with disabilities. The President included - and fully funded - this proposal in his FY 2000 budget and strongly endorsed the Senate-passed and House Commerce Committee versions which closely resembled it.

We are pleased that the Ways and Means Committee continues to take action on the Ticket to Work and Work Incentives Improvement Act legislation. We nevertheless have serious concerns with several provisions of your bill that we would like to work with the Committee to address. Our concerns center on a few changes in funding and coverage.

First, two important grant programs included in the Ticket to Work and Work Incentives Improvement Act are no longer adequately funded in the Ways and Means Committee bill. The first program supports the enhancement of state infrastructures to return people to work and the second is a grant program to carry out demonstrations permitting states to provide Medicaid coverage to workers with medical conditions that can reasonably be assumed to cause the level of disability required to qualify for Social Security cash benefits. In previous versions of the Work Incentives Improvement Act, these programs are funded through mandatory appropriations in the legislation. The Ways and Means Committee version of the bill, however, drops the appropriations and replaces them with authorizations for discretionary spending. These grant programs are incentives for the states to adopt the Medicaid buy-in portion of the legislation. Without state support, the success of the Medicaid buy-in will be limited. We believe that the appropriate means of funding these programs is through mandatory appropriations, and to this end we have provided viable

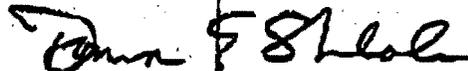
Page two - Chairman Archer

offsets for the entire Senate-passed bill. The Ways and Means Committee should recognize the partnership we depend on with the states, and restore the mandatory funding. Additionally, states have expressed concern about technical implementation issues arising from the income restrictions in the Senate version of the Medicaid buy-in program, which the Committee should consider.

Second, the bill does not guarantee that Medicare coverage will always be available to people with disabilities who return to work. The Ways and Means Committee version of the bill no longer provides for an on-going guarantee to Medicare coverage, but rather grants six additional years of Medicare benefits to individuals with disabilities who return to work. These benefits terminate after six years. The Ways and Means Committee provision extends the status quo that requires people with a disability to choose between work and health care, albeit six years later. To address this concern, the Committee should restore an on-going guarantee of coverage similar to the Senate-passed and House Commerce Committee bills.

We look forward to working with the Committee on this important bill that remains a top priority for the Administration. The Office of Management and Budget has advised that it has no objection to the transmittal of this report from the standpoint of the Administration's program.

Sincerely,



Donna Shalala

Donna Shalala

To: David Nexon

DRAFT

### Medicare PAYFORS

By fiscal year, in billions of dollars

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	10/12/98 '98-03	05:03 PM '98-08
<b>CHANGE IN DIRECT SPENDING</b>													
Market Price for Drugs		-0.1	-0.2	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.6	-1.3
Erythropoietin: Pay \$9 per 1000 units		-0.0	-0.0	-0.0	-0.0	-0.0	-0.0	-0.0	-0.0	-0.1	-0.1	-0.1	-0.4
MSP			-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.3	-0.9
Centers of Excellence		0.0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.5
Medicare+Choice Interaction		0.0	-0.1	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2	-0.3	-0.4	-1.3
<b>Total, Gross Medicare Mandatory Outlays</b>		<b>-0.1</b>	<b>-0.4</b>	<b>-0.4</b>	<b>-0.3</b>	<b>-0.4</b>	<b>-0.4</b>	<b>-0.5</b>	<b>-0.5</b>	<b>-0.6</b>	<b>-0.7</b>	<b>-1.0</b>	<b>-4.4</b>
<b>Total, Medicare Part B Premium Receipts</b>		<b>0.0</b>	<b>0.1</b>	<b>0.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.2</b>	<b>0.6</b>
<b>TOTAL, MEDICARE NET OUTLAYS</b>		<b>-0.1</b>	<b>-0.3</b>	<b>-0.3</b>	<b>-0.3</b>	<b>-0.3</b>	<b>-0.4</b>	<b>-0.4</b>	<b>-0.5</b>	<b>-0.6</b>	<b>-0.6</b>	<b>-1.3</b>	<b>-3.8</b>

507 = \$130-140 mill.



OCT:12, 1998 5:42PM COMMITTEE ON LABOR

NO. 0301 F-12-L

## Bunning-Kennelly Background and Talking Points

The Bunning-Kennelly work incentives legislation is a positive bill, which the Administration explicitly supported when it passed the House. It provides people with disabilities a "ticket" to purchase publicly or privately-provided vocational services that help these Americans return to work. It does not address the barrier most often cited by people with disabilities as the reason they do not return to work -- the fear of losing desperately needed and affordable health insurance. The Jeffords-Kennedy bill, the companion to Bunning-Kennelly, was designed to respond to this shortcoming, while including all of the provisions included in the House bill.

While we support the provisions in Bunning-Kennelly, we are taking the position that it would be imprudent to pass and enact this legislation in the absence of also including the Jeffords-Kennedy provisions. We agree with the disability community -- see attached letters -- that picking off individual provisions has the potential to raise false expectations. Moreover, the absence of support from the community for passing Bunning-Kennelly as a stand-alone raises questions about the political viability of supporting such legislation at this time -- for either party.

### Talking Points.

- We believe the Bunning-Kennelly legislation includes some important provisions that we continue to support. However, in the absence of the important health provisions included in the Jeffords-Kennedy bill, we believe it has the potential to raise false expectations and give the impression that we are removing the most important work barrier -- health care.
- We have taken this position only after careful consultation with the disability community. They have indicated quite strongly that the Bunning-Kennelly bill as a stand alone is not acceptable because "the 'ticket' alone, without health care... will result in a broken promise to Americans with disabilities."
- We believe this situation can be easily rectified by including the health provisions of the Jeffords-Kennedy bill. This bill is hardly radical or new. The new health provisions are all of 20 pages long. The Senate bill is simply the companion legislation to the Bunning-Kennelly bill. The major difference in the two bills, the Medicaid buy-in, simply builds on an initiative, which received bipartisan support, that was included in last year's BBA.
- The Senate bill simply improves on the BBA provision by giving more financial incentives and flexibility for states to take advantage of this option. It is not a mandate; states can limit costs; and it helps people work. This helps why it is so attractive to Republicans like Senator Dole, as well as Senators Grassley, Bond, McCain, DeWine, Snowe, Collins, and Specter.
- This is a priority to the disability community and to us. Let's work to get this "back-to-work" provision done.

# CONSORTIUM FOR CITIZENS WITH DISABILITIES

October 9, 1998

President William Jefferson Clinton  
The White House  
Washington, DC 20505

Dear President Clinton:

The undersigned national organizations of the Consortium for Citizens with Disabilities, along with the undersigned affiliated organizations, strongly urge you to locate sources of money that can be used as offsets in order to enact this year the *Work Incentives Improvement Act of 1998* as a substitute for H.R. 3433, the *Ticket to Work and Self-Sufficiency Act of 1998* which passed the House 410-1 in June.

The disability community extends its thanks to you and your domestic policy staff for the magnificent efforts made on our behalf that have made it possible to include vitally needed health care coverage with the return to work ticket legislation passed by the House. The *Work Incentives Improvement Act of 1998* extends the work begun by the House when it passed H.R. 3433, the Bunning/Kennelly "Ticket to Work and Self-Sufficiency Act". All of the provisions in H.R. 3433 were incorporated, some with modifications, into the Senate substitute bill. However, the Senate bill covers some of the issues raised in the House Committee Report but not addressed in the House bill.

The Senate bill incorporates critically important provisions which would extend health care coverage for SSI and SSDI beneficiaries who return to work. During the hearing conducted by the House Ways and Means Committee, extended health care coverage was identified as the number one barrier to employment for SSI and SSDI beneficiaries who want to work but are unable to affordable health care. Today, 7.5 million Americans with disabilities depend on assistance from the Social Security Administration. GAO has estimated that if 75,000 of these individuals, just one percent, become successfully employed, the savings in cash assistance alone could reach as high as \$3.5 billion.

The current work incentives programs do not adequately remove barriers to work. Numerous studies and personal interviews of individuals with disabilities who want to work consistently report that barriers to employment include the loss of health coverage, the complexity of the work incentives, and the lack of choice in employment service providers. They also consistently say that all of these problems must be solved in order for them to work. The *Work Incentives Improvement Act of 1998* incorporates all of these solutions through the ticket to work, the work incentives planners, a strong advisory committee, protection and advocacy services, an extension of premium-free Medicare, and a state option in Medicaid that supports working people with disabilities.

People with disabilities do want to work and reduce their dependency on cash assistance. They need both the *ticket to work AND health care provisions* in order to work. The ticket alone, without health care, work incentives planners, protection and advocacy, and a strong advisory committee will result in a broken promise to Americans with disabilities, a failure in the design of state of the art public policy, and will fall far short of the goal of assisting people with disabilities to work. This bill is good public policy and must be enacted this year! We will not, however, be able to support the Ticket without the health care and work incentives provisions in the Jeffords/Kennedy legislation.

Sincerely, (See reverse side for signatories)

*Marty Ford*

*Tony Young*

*Paul Seifert*

*Michael Losow*

Marty Ford  
The Arc of the US

Tony Young  
UCP

Paul Seifert  
IAPSRs

Michael Losow  
NISH

Co-Chairs, CCD Task Force on Social Security

Signatory Organizations

American Counseling Association  
American Association of University Affiliated Programs  
Alliance for Rehabilitation Counseling (NRCA/ARCA)  
American Network of Community Options and Resources  
Association of Persons in Supported Employment  
Autism Society of America  
Bazelon Center For Mental Health Law  
Bethpage  
Center on Disability and Health  
Council for Exceptional Children  
Consortium of Developmental Disabilities Councils  
Goodwill Industries International, Inc.  
Disability Rights Education & Defense Fund  
Easter Seals  
Epilepsy Foundation of America  
International Association of Psychosocial Rehabilitation Services  
Inter-National Association of Business, Industry, and Rehabilitation  
Learning Disabilities Association of America  
National Alliance for the Mentally Ill  
National Association of the Deaf  
National Association of Developmental Disabilities Councils  
National Association of People with Aids  
National Association of Protection and Advocacy Systems  
National Association of State Directors of Developmental Disabilities Services  
National Association of State Mental Health Program Directors  
National Council for Community Behavioral Healthcare  
National Mental Health Association  
National Parent Network on Disabilities  
National Rehabilitation Counseling Association  
NISH (formerly National Industries for the Severely Handicapped)  
The Arc of the United States  
Paralyzed Veterans of America  
United Cerebral Palsy Associations  
World Institute on Disability

Other signatory organizations:

AIDS Action  
AIDS Legal Referral Panel  
American Association for World Health  
American Friends Service Committee

American Nurses Association  
Association of Nurses in AIDS Care  
Center for Women Policy Studies  
Cities Advocating Emergency AIDS Relief  
Coalition for the Homeless  
Committee for Children  
Human Rights Campaign  
Legal Action Center  
National Association of Public Hospitals and Health Systems  
National Gay and Lesbian Task Force  
National Health Law Program  
National Native American AIDS Prevention Center  
National Rural Health Association  
Oncology Nursing Society  
Project Inform  
Therapeutic Communities of America  
United Jewish Appeal Federation of New York  
Women's AIDS Network

**N**ational Parent Network on Disabilities, Inc.  
1130 17th Street N.W., Suite 400  
Washington, D.C. 20036  
Phone: 202.463.2299  
Fax: 202.463.9403

President Bill Clinton  
White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear President Clinton,

The National Parent Network on Disabilities (NPND) is a national organization committed to serving parents and family members of the over 5.5 million children with special needs and disabilities. We provide information on ALL disabilities and services to families in every state and U.S. Territory.

Mr. President we would like to thank you for the work your Administration has put forth to ensure that individuals with disabilities will have health care when they enter the work force. Your support has been recognized by NPND and many other family organizations.

NPND, and our members, have worked very hard on the bipartisan Work Incentive Improvement Act of 1998. Parents work too hard for their children to allow job opportunities to not be a reality for them as adults. We will not, however, be able to support the "ticket" without the health care and work incentive provisions in the Kennedy / Jeffords substitute legislation.

Please continue to support this important legislation, in its entirety, for individuals with disabilities want the opportunity to exercise their right to work.

Sincerely,

*Patricia M. Smith*

Patricia M. Smith  
Executive Director,  
National Parent Network on Disabilities, Inc.

National Council on Independent Living  
1916 Wilson Blvd., Suite 209  
Arlington, VA 22201  
Voice (703) 525-3406  
TTY (703) 525-4153  
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October 9, 1998

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Gina McDonald  
Salina, Kansas

Vice President  
Paul Spooner  
Framingham, Massachusetts

Secretary  
Helen Roth  
Logan, Utah

Treasurer  
Leo Schultz  
Milwaukee, Wisconsin

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Dwight Bateman  
Modesto, California

James Billy  
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Jan Day  
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Region V  
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Region VI  
Carri George  
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Region VII  
Michael Oxford  
Topeka, Kansas

Region VIII  
Nancy Conklin  
Grand Junction, Colorado

Region IX  
Kent Mickelson  
Bolmont, California

Region X  
Kelly Buckland  
Boise, Idaho

President Bill Clinton  
White House  
Washington, D.C.

Dear President Clinton:

On behalf of the individuals with disabilities and centers for independent living that make up the National Council on Independent Living, we want to thank you for your continuing efforts to increase the numbers of people with disabilities who start, or return to, work.

Most recently those efforts include your creation of the Task Force on the Employment of People with Disabilities and your proclamation that October is National Disability Employment Awareness Month. In addition, we also want to thank your staff, Chris Jennings and Jeanne Lambrew, who have spent many hours working with us in the last few months on the Work Incentives Improvement Act (S. 1858), introduced by Senators Jim Jeffords and Ted Kennedy.

Tonight S. 1858 is in trouble. Many of the cost offsets that were part of the bill are now gone, attached to another bill, with no replacement "pay-fors" in sight. In addition, there are efforts to kill this bill and instead pass H.R. 3433, The Ticket to Work and Self-Sufficiency Act, as introduced by Representative Jim Bunning and Barbara Kennelly.

NCIL strongly supported H.R. 3433 when it was introduced. It is, in many ways, a good bill. But the Senate took this good bill and made it even better. S. 1858 adds provisions to the ticket to work that continue health care coverage when a person with a disability starts, or returns to, work. Many of us are unable to go to work because if we do we will lose our Medicaid and Medicare. And that is a risk we cannot take. Our very lives depend on the prescriptions, the personal assistance, the assistive technology, the therapy, and the medical care we receive through our health care coverage.

NOT JUST RESPONDING TO CHANGE, BUT LEADING IT.



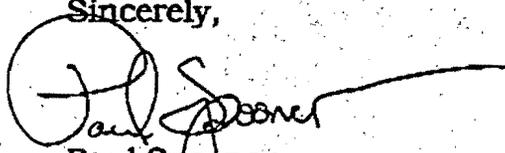
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The Work Incentives Improvement Act includes all of the House ticket to work provisions, and then builds on them. It responds to what our members have been telling Congress and the Administration for the last two years: You have to address the barriers to employment in a way that is comprehensive. The barriers are interrelated. They do not fall into tidy categories based on congressional committee jurisdiction. If I can choose the employment services provider that I want, but know that I will lose my health insurance if I go back to work, and know that I will not be able to earn enough to pay my personal assistant, my prescription costs, and my doctor, what difference does this choice make? The ticket works only if the health care barriers I face are also addressed.

We need health care coverage when we go to work, we need a real choice of providers, we need to have some say in the work incentives rules that affect our lives, and we need assistance navigating the complex maze of rules that are intended to help us but often stand in our way. And we need to begin to find a way to gradually get off benefits as our work earnings increase, not fall off the current "cash cliff" back into poverty. S. 1858 does all those things.

***We urgently need your help.*** Help us find the new cost offsets this bill now needs, and help us convince this Congress that S. 1858, with both the ticket to work and health care provisions, is a bill they must pass. **Together** health care and increased choice through the ticket to work can ensure that our efforts to start, and return to, work will be successful. And that's good for our lives, our communities, and for this country's economy. Please work with us to get this bill passed before Congress adjourns -- then we can truly celebrate October as National Disability Employment Awareness Month.

Sincerely,

  
Paul Spooner  
Vice-President

cc: Erskine Bowles, Chief of Staff to the President  
Bruce Reed, Assistant to the President for Domestic Policy  
Chris Jennings, Deputy Assistant for Health Policy Development  
Jeanne Lambrew, Senior Health Policy Analyst  
Jonathan Young, White House Office of Public Liaison

TOM HARKIN  
IOWA

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Tom\_Harkin@Harkin.Senate.Gov

## United States Senate

WASHINGTON, DC 20510-1502

October 10, 1998

COMMITTEES:  
AGRICULTURE  
APPROPRIATIONS  
SMALL BUSINESS  
LABOR AND HUMAN  
RESOURCES

Mr. Erskine Bowles  
Chief of Staff to the President  
The White House  
Washington, D.C. 20500

Dear Erskine:

I am writing to add my strong support for the Work Incentives Improvement Act of 1998, the Senate substitute to H.R. 3433.

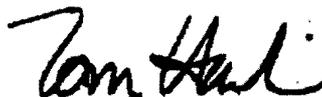
As you know, nearly 75% of people with severe disabilities are unemployed. More than eight million people between the ages of 18 and 64 are on SSI or SSDI. And less than one-half of one percent of people on SSI or SSDI return to work each year.

These numbers are deeply distressing. While we took a first step toward addressing the low employment rate of people with disabilities when we passed the Americans with Disabilities Act, time has proven that civil rights, alone, are not enough. The ADA protects a person with a disability from discrimination. The ADA requires an employer to provide a person with a disability the accommodations he or she needs in order to work. But if a person with a disability does not also have access to health care benefits -- benefits broad enough to address that person's serious health care needs -- then the ADA means little.

For the ADA to have the impact we all intended, we must bring the rest of our federal policies into the 21st century. The Work Incentives Improvement Act begins to do just that. The bill offers persons with disabilities affordable and accessible health care, so that they no longer have to face the choice between working and paying taxes, on the one hand, or having access to health care benefits on the other.

The Work Incentives Improvement Act presents us with the opportunity to make real and significant improvements in the lives of people with disabilities. It is my sincere hope that this important piece of reform legislation gets enacted before we adjourn.

Sincerely,



Tom Harkin

cc: Chris Jennings

OCT-06-1998 09:52

1 515 357 6471  
OPPORTUNITY VILLAGE

1 515 357 6471 P.03/03

CHARLES E. GRASSLEY, Iowa, Republican

JAMES H. HAYES, Missouri  
LARRY E. CHAMBERS, Ohio  
MICHAEL B. ENRICH, Kentucky  
ROBERT C. BYRD, West Virginia  
BOB CRANDALL, Arkansas  
JOHN C. WEAVER, Tennessee  
COLLEEN HANSEN, Minnesota  
BLAKE ELLISON, Idaho  
MIGUEL A. RODRIGUEZ, Texas

JOHN G. ROBERTS, Oklahoma  
JERRY BRADY, Oregon  
ARMY ANDERSON, Nevada  
BOB CASE, Wisconsin  
BLAKE A. HELM, Mississippi  
CAROL M. BAIRD, Louisiana  
BOB CORKER, Tennessee  
JACK REED, Rhode Island

**United States Senate**  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400

October 5, 1998

The Honorable James M. Jeffords  
Chairman  
Senate Committee on Labor and Human Resources  
Dirksen Senate Office Building, room 428  
Washington, DC 20510

Dear Chairman Jeffords:

As you are already aware, many people with disabilities who have been out of the workforce are eager to return to work. However, because of the risks of losing cash benefits and health insurance provided through the Social Security Disability Insurance program and the Supplemental Security Income program many beneficiaries are discouraged from entering or re-entering the workforce. The intent of these programs was never to demoralize or dishearten Americans who are ready, willing and able to work. We must look at ways to overcome this attitude.

Thanks to the disability reform proposal you and Senator Kennedy have developed, many of the barriers facing people with disabilities will be addressed. Several provisions in the Jeffords-Kennedy substitute to H.R. 3433 tackle the problems of loss of cash benefits and health insurance which can prevent beneficiaries from being able to support themselves once they begin working. The substitute legislation would provide working individuals with disabilities access to additional services under the Medicaid program, such as personal assistance and prescription drugs. These services are vital to many people on SSDI and SSI. Furthermore, this proposal would provide improved access to rehabilitation opportunities for beneficiaries of both the SSI and SSDI programs.

The work you and Senator Kennedy have put forth on this bill characterizes the bipartisanship necessary to pass the proposal into law. I am glad to lend my support to the Senate substitute legislation to H.R. 3433. I look forward to passage of this legislation.

Sincerely,



Charles E. Grassley  
United States Senator

cc: Majority Leader Trent Lott  
Minority Leader Tom Daschle

# DREDF

Disability Rights Education and Defense Fund, Inc.

October 10, 1998

President William Jefferson Clinton  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. President,

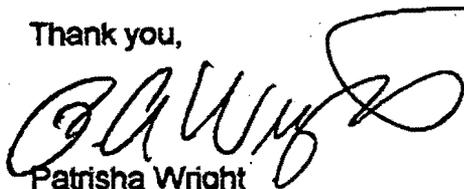
On behalf of the Disability Rights Education and Defense Fund, I would like to thank you for your leadership and commitment to the integration of people with disabilities into the work force clearly demonstrated by your support for the Kennedy /Jeffords substitute on Work Incentives. We would also like to acknowledge Chris Jennings, Jeanne Lambrew, and Jonathan Young for their excellent work in developing the language within the proposed legislation.

It is imperative that during these final moments of this Congress we all continue the fight for Healthcare for people with disabilities in and out of the work force. We ask you to not be fooled by those who argue that a so called "ticket" to employment is all that is needed. Even with its best projections the "ticket" will help no more than 10,000 workers. The ticket is no more than a bounty payment for providers and a mere Band-Aid for a few people with disabilities. **We do not and we will not support a bill which reflects only the "Ticket".**

Mr. President, people with disabilities want to work, we want to be tax generating not tax depleting. Without the passage of the Kennedy Jeffords substitute we will be saying again, to millions of people with disabilities, that we do not value their abilities. We will be telling people to stay at home and live off the Federal dole. This is the time to begin to remove the barriers that prevent people with disabilities from joining the work force. With your continued leadership we will enter the new millennium working not begging.

Please help us end dependence **NO Healthcare, NO Ticket.**

Thank you,



Patrisha Wright  
Director of Government Affairs

## Jeffords-Kennedy "Work Incentive" Disability Bill

One of our top priorities in the final negotiations of the Appropriations process has been to work to pass the Jeffords-Kennedy "Work Incentive Improvement Act of 1998." This legislation enables people with disabilities to go back to work by helping provide an option to buy into Medicaid and Medicare, as well as other pro-work initiatives. CBO estimates this bill costs about \$250 million a year when fully implemented (for a five year cost of \$1.2 billion.) The costs of this bill are offset by savings that were included in our 55-65 Medicare buy-in proposal.

Democrats on the authorizing and appropriations committees are supportive of the Jeffords/Kennedy bill. In addition, Senator Jeffords' office informs us that Republican support for this bill is quite impressive as well. (Senator Lott's office has also quietly indicated interest as well.) The Republican authorizers (Roth of Senate Finance; Bliley of House Commerce) are reportedly opposing moving this bill this year. Roth apparently does not object to the policy, but has concerns about the offsets. Bliley is feeling "jammed" by a bill that never went through his Committee. It is important to note that the Administration (and the disability community) does not support passage of the House version of this bill (Bunning-Kennelly) this year unless the critical health care buy-in proposals in Jeffords-Kennedy are added on to this otherwise similar legislation.

### Talking Points

- We all want to provide work incentives for anyone willing and able to work. The Jeffords-Kennedy legislation does just that by helping to remove one of the primary barriers for people with disabilities to go to work -- the fear of losing health insurance. We believe the bipartisan support this bill has received reflects how non-partisan this issue really is.
- This initiative allows people with disabilities to buy into the Medicaid and Medicare programs, helping people with disabilities to keep their health insurance when they return to work. It also includes the so-called "ticket" proposal that enables people to get public or private vocational rehabilitation, which was included in the Bunning-Kennelly bill.
- This bill is hardly radical or new. The new health provisions are all of 20 pages long. The Senate bill is simply the companion legislation to the Bunning-Kennelly bill. The major difference in the two bills, the Medicaid buy-in, simply builds on an initiative, which received bipartisan support, that was included in last year's BBA.
- The Senate bill simply improves on the BBA provision by giving more financial incentives and flexibility for states to take advantage of this option. It is not a mandate; states can limit costs; and it helps people work. This helps why it is so attractive to Republicans like Senator Dole, as well as Senators Grassley, Bond, McCain, DeWine, Snowe, Collins, and Specter.
- This is a priority to the disability community and to us. Let's work to get this "back-to-work" provision done.

## **BACKGROUND**

The disability community is extremely excited about the prospects of passing the Jeffords-Kennedy "Work Incentive Improvement Act of 1998," which the President endorsed in July and the Administration has been working on since this past spring. (You will recall your meeting with Tony Coehlo and Alexis Herman earlier this year on this subject in preparation for the President's meeting with the disability community.) The disability groups are hoping that it could be added to the omnibus budget bill prior to adjournment and are pressing us to be supportive. DPC, NEC, and OMB believe this is a very strong bill and merits making it one of our priorities. If it does not make it into the final bill, however, it is essential that it is clear that its omission was due to Republican opposition and not our lack of support.

**Summary of Jeffords-Kennedy "Work Incentive" Disability Bill.** This bill provides people with disabilities the ability to buy into the Medicaid and Medicare programs. Because the lack of health insurance is the number one barrier cited by disability community to return to work, this option is extremely important. This bill also provides for a so-called "ticket" to allow for public or private vocational rehabilitation. The disability groups cite this legislation as potentially the most significant initiative since the enactment of the Americans with Disabilities Act (ADA).

**Cost Estimate and Offsets.** CBO estimates this bill costs \$77 million in FY 99 and about \$250 million a year when fully implemented (for a five year cost of \$1.2 billion.) We have proposed that the Congress use the Medicare savings offsets we originally dedicated to the 55-65 Medicare buy-in proposal, which clearly is not going anywhere this year. The offsets include a reduction in mark-ups that physicians bill Medicare for certain drugs, stronger enforcement of a provision requiring Medicare to be the secondary payer for beneficiaries who have private coverage, an expansion of a Medicare reform demo that contracts out with specific "Centers of Excellence" to provide certain services, and two Social Security Administration fraud and abuse provisions.

**Hill Support.** Democrats on the authorizing (Moynihan and Dingell) and appropriations committees are supportive of the Jeffords/Kennedy bill. We are informed that Senator Byrd, Senator Harkin, and Congressman Obey are carrying this bill on their priorities list. Senators Jeffords' staff has informed us that a number of Republicans (Grassley, Bond, McCain, DeWine, Snowe, Collins, and Specter) are supporting this proposal. Senator reportedly supports the policy, but has suggested that some of his Finance Committee Members might have problems with the offsets. The House Republican authorizers are apparently much more problematic, saying that they feel that they are being "jammed" with a policy that they never had an opportunity to review.

**Politics.** The House counterpart to the Work Incentive Improvement Act is H.R. 3433, a bill introduced by Representatives' Bunning and Kennelly. However, H.R. 3433 does not include the Medicaid/Medicare buy-in proposals. Although the disability community supports the provisions in H.R. 3433, they are opposing its passage this year UNLESS the Jeffords/Kennedy health add-ons are included. This should strengthen our hand to oppose Bunning/Kennelly UNLESS we get the health provisions we and the Democrats are seeking.

# CONSORTIUM FOR CITIZENS WITH DISABILITIES

October 9, 1998

President William Jefferson Clinton  
The White House  
Washington, DC 20505

Dear President Clinton:

The undersigned national organizations of the Consortium for Citizens with Disabilities, along with the undersigned affiliated organizations, strongly urge you to locate sources of money that can be used as offsets in order to enact this year the *Work Incentives Improvement Act of 1998* as a substitute for H.R. 3433, the *Ticket to Work and Self-Sufficiency Act of 1998* which passed the House 410-1 in June.

The disability community extends its thanks to you and your domestic policy staff for the magnificent efforts made on our behalf that have made it possible to include vitally needed health care coverage with the return to work ticket legislation passed by the House. The *Work Incentives Improvement Act of 1998* extends the work begun by the House when it passed H.R. 3433, the Bunning/Kennelly "Ticket to Work and Self-Sufficiency Act". All of the provisions in H.R. 3433 were incorporated, some with modifications, into the Senate substitute bill. However, the Senate bill covers some of the issues raised in the House Committee Report but not addressed in the House bill.

The Senate bill incorporates critically important provisions which would extend health care coverage for SSI and SSDI beneficiaries who return to work. During the hearing conducted by the House Ways and Means Committee, extended health care coverage was identified as the number one barrier to employment for SSI and SSDI beneficiaries who want to work but are unable to affordable health care. Today, 7.5 million Americans with disabilities depend on assistance from the Social Security Administration. GAO has estimated that if 75,000 of these individuals, just one percent, become successfully employed, the savings in cash assistance alone could reach as high as \$3.5 billion.

The current work incentives programs do not adequately remove barriers to work. Numerous studies and personal interviews of individuals with disabilities who want to work consistently report that barriers to employment include the loss of health coverage, the complexity of the work incentives, and the lack of choice in employment service providers. They also consistently say that all of these problems must be solved in order for them to work. The *Work Incentives Improvement Act of 1998* incorporates all of these solutions through the ticket to work, the work incentives planners, a strong advisory committee, protection and advocacy services, an extension of premium-free Medicare, and a state option in Medicaid that supports working people with disabilities.

People with disabilities do want to work and reduce their dependency on cash assistance. They need both the *ticket to work* AND *health care provisions* in order to work. The ticket alone, without health care, work incentives planners, protection and advocacy, and a strong advisory committee will result in a broken promise to Americans with disabilities, a failure in the design of state of the art public policy, and will fall far short of the goal of assisting people with disabilities to work. This bill is good public policy and must be enacted this year! We will not, however, be able to support the Ticket without the health care and work incentives provisions in the Jeffords/Kennedy legislation.

Sincerely, (See reverse side for signatories)

*Marty Ford*

*Tony Young*

*Paul Seifert*

*Michael Losow*

Marty Ford  
The Arc of the US  
Co-Chairs, CCD Task Force on Social Security

Tony Young  
UCP

Paul Seifert  
IAPSRs

Michael Losow  
NISH

Signatory Organizations

American Counseling Association  
American Association of University Affiliated Programs  
Alliance for Rehabilitation Counseling (NRCA/ARCA)  
American Network of Community Options and Resources  
Association of Persons in Supported Employment  
Autism Society of America  
Bazelon Center For Mental Health Law  
Bethpage  
Center on Disability and Health  
Council for Exceptional Children  
Consortium of Developmental Disabilities Councils  
Goodwill Industries International, Inc.  
Disability Rights Education & Defense Fund  
Easter Seals  
Epilepsy Foundation of America  
International Association of Psychosocial Rehabilitation Services  
Inter-National Association of Business, Industry, and Rehabilitation  
Learning Disabilities Association of America  
National Alliance for the Mentally Ill  
National Association of the Deaf  
National Association of Developmental Disabilities Councils  
National Association of People with Aids  
National Association of Protection and Advocacy Systems  
National Association of State Directors of Developmental Disabilities Services  
National Association of State Mental Health Program Directors  
National Council for Community Behavioral Healthcare  
National Mental Health Association  
National Parent Network on Disabilities  
National Rehabilitation Counseling Association  
NISH (formerly National Industries for the Severely Handicapped)  
The Arc of the United States  
Paralyzed Veterans of America  
United Cerebral Palsy Associations  
World Institute on Disability

Other signatory organizations:

AIDS Action  
AIDS Legal Referral Panel  
American Association for World Health  
American Friends Service Committee

American Nurses Association  
Association of Nurses in AIDS Care  
Center for Women Policy Studies  
Cities Advocating Emergency AIDS Relief  
Coalition for the Homeless  
Committee for Children  
Human Rights Campaign  
Legal Action Center  
National Association of Public Hospitals and Health Systems  
National Gay and Lesbian Task Force  
National Health Law Program  
National Native American AIDS Prevention Center  
National Rural Health Association  
Oncology Nursing Society  
Project Inform  
Therapeutic Communities of America  
United Jewish Appeal Federation of New York  
Women's AIDS Network

**N**ational Parent Network on Disabilities, Inc.  
1130 17th Street N.W., Suite 400  
Washington, D.C. 20036  
Phone: 202.463.2299  
Fax: 202.463.9403

President Bill Clinton  
White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear President Clinton,

The National Parent Network on Disabilities (NPND) is a national organization committed to serving parents and family members of the over 5.5 million children with special needs and disabilities. We provide information on ALL disabilities and services to families in every state and U.S. Territory.

Mr. President we would like to thank you for the work your Administration has put forth to ensure that individuals with disabilities will have health care when they enter the work force. Your support has been recognized by NPND and many other family organizations.

NPND, and our members, have worked very hard on the bipartisan Work Incentive Improvement Act of 1998. Parents work too hard for their children to allow job opportunities to not be a reality for them as adults. We will not, however, be able to support the "ticket" without the health care and work incentive provisions in the Kennedy / Jeffords substitute legislation.

Please continue to support this important legislation, in its entirety, for individuals with disabilities want the opportunity to exercise their right to work.

Sincerely,

*Patricia M. Smith*

Patricia M. Smith  
Executive Director,  
National Parent Network on Disabilities, Inc.

**National Council on Independent Living**

1916 Wilson Blvd., Suite 209  
Arlington, VA 22201  
Voice (703) 525-3406  
TTY (703) 525-4153  
FAX (703) 525-3409  
E-Mail ncil@tsbbs08.tnet.com

**Executive Director**  
Anne-Marie Hughey

October 9, 1998

**Officers**  
President  
Gina McDonald  
Salina, Kansas

**Vice President**  
Paul Spooner  
Framingham, Massachusetts

**Secretary**  
Heien Roth  
Logan, Utah

**Treasurer**  
Lee Schulz  
Milwaukee, Wisconsin

**Regional Representatives**  
Chairperson  
Jan Day  
Louisville, Kentucky

**Members-At-Large**  
Linda Anthony  
Harrisburg, Pennsylvania

Dwight Bateman  
Modesto, California

James Billy  
New York, New York

Daniel Kessler  
Birmingham, Alabama

Ralph Shelman  
Hampton, Virginia

Courtlund Townes III  
Boston, Massachusetts

Susan Webb  
Phoenix, Arizona

**Regional Representatives**  
Region I  
Larry Robinson  
Concord, New Hampshire

**Region II**  
June Roberts  
Holtsville, New York

**Region III**  
Kathleen Kleinmann  
Washington, Pennsylvania

**Region IV**  
Jan Day  
Louisville, Kentucky

**Region V**  
Steven Thovson  
Marshall, Minnesota

**Region VI**  
Cari George  
Houston, Texas

**Region VII**  
Michael Oxford  
Topeka, Kansas

**Region VIII**  
Nancy Conklin  
Grand Junction, Colorado

**Region IX**  
Kent Mickelson  
Baltimore, California

**Region X**  
Kelly Buckland  
Boise, Idaho

President Bill Clinton  
White House  
Washington, D.C.

Dear President Clinton:

On behalf of the individuals with disabilities and centers for independent living that make up the National Council on Independent Living, we want to thank you for your continuing efforts to increase the numbers of people with disabilities who start, or return to, work.

Most recently those efforts include your creation of the Task Force on the Employment of People with Disabilities and your proclamation that October is National Disability Employment Awareness Month. In addition, we also want to thank your staff, Chris Jennings and Jeanne Lambrew, who have spent many hours working with us in the last few months on the Work Incentives Improvement Act (S. 1858), introduced by Senators Jim Jeffords and Ted Kennedy.

Tonight S. 1858 is in trouble. Many of the cost offsets that were part of the bill are now gone, attached to another bill, with no replacement "pay-fors" in sight. In addition, there are efforts to kill this bill and instead pass H.R. 3433, The Ticket to Work and Self-Sufficiency Act, as introduced by Representative Jim Bunning and Barbara Kennelly.

NCIL strongly supported H.R. 3433 when it was introduced. It is, in many ways, a good bill. But the Senate took this good bill and made it even better. S. 1858 adds provisions to the ticket to work that continue health care coverage when a person with a disability starts, or returns to, work. Many of us are unable to go to work because if we do we will lose our Medicaid and Medicare. And that is a risk we cannot take. Our very lives depend on the prescriptions, the personal assistance, the assistive technology, the therapy, and the medical care we receive through our health care coverage.

NOT JUST RESPONDING TO CHANGE, BUT LEADING IT.



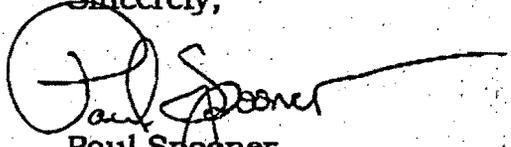
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The Work Incentives Improvement Act includes all of the House ticket to work provisions, and then builds on them. It responds to what our members have been telling Congress and the Administration for the last two years: You have to address the barriers to employment in a way that is comprehensive. The barriers are interrelated. They do not fall into tidy categories based on congressional committee jurisdiction. If I can choose the employment services provider that I want, but know that I will lose my health insurance if I go back to work, and know that I will not be able to earn enough to pay my personal assistant, my prescription costs, and my doctor, what difference does this choice make? The ticket works only if the health care barriers I face are also addressed.

We need health care coverage when we go to work, we need a real choice of providers, we need to have some say in the work incentives rules that affect our lives, and we need assistance navigating the complex maze of rules that are intended to help us but often stand in our way. And we need to begin to find a way to gradually get off benefits as our work earnings increase, not fall off the current "cash cliff" back into poverty. S. 1858 does all those things.

***We urgently need your help.*** Help us find the new cost offsets this bill now needs, and help us convince this Congress that S. 1858, with both the ticket to work and health care provisions, is a bill they must pass. **Together** health care and increased choice through the ticket to work can ensure that our efforts to start, and return to, work will be successful. And that's good for our lives, our communities, and for this country's economy. Please work with us to get this bill passed before Congress adjourns -- then we can truly celebrate October as National Disability Employment Awareness Month.

Sincerely,

  
Paul Spooner  
Vice-President

cc: Erskine Bowles, Chief of Staff to the President  
Bruce Reed, Assistant to the President for Domestic Policy  
Chris Jennings, Deputy Assistant for Health Policy Development  
Jeanne Lambrew, Senior Health Policy Analyst  
Jonathan Young, White House Office of Public Liaison

## SUMMARY OF THE WORK INCENTIVES IMPROVEMENT ACT OF 1998

This bill provides people with disabilities who want to work with new Medicaid and Medicare options and a "ticket" to allow for public or private vocational rehabilitation. It also removes current institutional barriers, provides grants to states and organizations to help connect people with disabilities with appropriate services, and funds demonstrations and studies to better understand policies that will encourage and enable work. Its costs -- \$1.2 billion over 5 years -- are fully offsets by a series of SSA and Medicare fraud provisions.

**Expanded Availability of Health Care Services.** Since health care is essential to enabling people with disabilities to work, this bill creates several new options:

- Medicaid buy-in for workers with disabilities with income or assets above the current limits;
- Medicaid buy-in for workers with disabilities who remain disabled but lose eligibility for Medicaid due to medical improvement; and
- Demonstration of a Medicaid buy-in for people with disabilities that have not yet gotten severe enough to end work and qualify them for disability, Medicaid or Medicare.

The demonstration funding is \$300 million, and \$150 million in grants would be given for infrastructure and outreach to states electing the Medicaid options. (Cost: \$1.09 billion over 5)

**Elimination of Work Disincentives.** Prohibits using work activity as the sole basis for scheduling a continuing disability review and expedites eligibility determinations for individuals who had been on disability insurance but lost it due to work.

**Ticket to Work and Self-Sufficiency.** Creates a "ticket" that enables an SSI or SSDI beneficiary to go to either a public or a private provider of vocational rehabilitation. Providers would be paid a portion of the benefits saved through either an outcome or "milestone" payment if the beneficiary goes to work and achieves substantial earnings. (Cost: \$17 million over 5)

**Work Incentives Planning, Assistance, and Outreach.** Creates (1) a community-based work incentives planning and assistance program to disseminate information to individuals with disabilities on work incentives programs and issues related to such programs; (2) grant program to establish and implement programs to provide advocacy and protection to participants in work incentives programs; and (3) a Work Incentives Advisory Panel to provide guidance and progress reports on work incentive programs. (Cost: \$92 million over 5)

**Demonstration Projects and Studies.** Extends SSA's demonstration authority and creates the "\$1 for \$2" demonstration that phases out benefit with earnings. Also, requires the General Accounting Office to conduct several studies of policies that have effects on work incentives. (Cost: \$55 million over 5)

**Offsets.** This title contains a number of provisions that are oriented toward reducing fraud and overpayments in SSI and Medicare. (Savings: \$1.6 billion over 5)

## SUMMARY OF THE WORK INCENTIVES IMPROVEMENT ACT OF 1998

### **Title I. Expanded Availability of Health Care Services**

**101. Expanding State Options Under Medicaid for Workers with Disabilities.** Two new optional eligibility categories allow states to expand Medicaid coverage to workers with disabilities beyond the current option created in the Balanced Budget Act of 1997 (BBA). The BBA option allows people with disabilities who would be eligible for Supplemental Security Income (SSI) but for earned income up to 250 percent of poverty to buy into Medicaid at a premium set by the state. Prior to the BBA, individuals with disabilities who returned to work would lose Medicaid eligibility -- even if Medicaid services were what enabled them to work.

The first new option allows states to expand this Medicaid buy-in to people with disabilities with earned income above 250 percent of poverty with assets, resources and unearned income limits set by the state. This is important since many workers with disabilities have either assets and resources that exceed the current limit of \$2,000 or are transitioning from Social Security Disability Insurance (SSDI) and have unearned income exceeding the limit of about \$500. (Cost: \$73 million over 5)

The second new option allows states that elect the first option (covering working people with disabilities with assets, resources and unearned income limits set by the state) to also cover people who continue to have a severe medically determinable impairment but lose eligibility for SSI or Social Security Disability Insurance (SSDI) because of medical improvement. Often, such improvements are possible only with health care. For example, a person with rheumatoid arthritis whose condition prevents work could receive disability and health coverage. If, at the annual disability review, laboratory tests were still positive but the therapy and a new drug allowed the person to work, benefits would essentially end. Although this temporary remission is mostly attributable to health care coverage, the improvement would disqualify the person from disability and thus health benefits under current law. This provision would let a state allow this type of person to buy into Medicaid at a premium set by the state. (Cost: \$338 million over 5)

States could not supplant existing state spending with Medicaid funding under these options and would have to maintain effort for current spending for people made eligible under these options.

**Section 102. Continuation of Medicare Coverage for Working Individuals with Disabilities.** A ten-year trial program would allow people who are receiving Medicare because of their receipt of SSDI payments to continue to receive Part A coverage when they return to work. Under current law, people may receive Medicare coverage when they are in their trial work period and extended period of eligibility, but after that 39-month period, would have to pay the full Medicare Part A premium. In many cases, people returning to work following SSDI either work part time and thus are not eligible for employer-based health insurance or work in jobs that do not offer insurance. This leaves them no alternative to the individual insurance market which can charge people with pre-existing conditions exorbitant premiums in most states. This option, which allows these workers to maintain their Medicare coverage, will serve as an important incentive to return to work. (Cost: \$225 million over 5)

**Sec. 103. Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities.** A grant program would give states funds to support the design, establishment and operation of infrastructures that provide items and services to support working individuals with disabilities. Funds could also be used for outreach campaigns to connect people with disabilities with resources. A total of \$150 million will be available for the first 5 years, and annual amounts will be increased at the rate of inflation for 2004 through 2009. Then, the Secretary of Health and Human Services will recommend whether the program is still needed.

States are eligible for these grants if they take one or both of the new eligibility options for working individuals with disabilities created and provide personal assistance needed to enable working people with disabilities to maintain employment. States meeting these criteria would receive a grant no less than \$500,000 and no more than equal to 15 percent of expenditures on medical assistance for individuals eligible under the new state options. Funds are available to states until expended.

**Sec. 104. Demonstration of Coverage of Workers with Potentially Severe Disabilities.** A demonstration program will allow states to give health care coverage through Medicaid to workers that, as defined by the State, have a disability that without health care could become severe enough to qualify them for SSI or SSDI. Funding of \$300 million will be available for this demonstration, which will sunset at the end of FY 2004. States can participate in this demonstration if they have opted to expand coverage through at least one of the new Medicaid eligibility options for workers with disabilities. People covered in this demonstration will receive the same health benefits and pay the same premiums as these workers with disabilities.

This demonstration is intended to help people with a specific physical or mental impairment that, as defined by the state, is reasonably expected to lead to a severe disability without medical assistance. For example, a person with muscular dystrophy, Parkinson's Disease, or diabetes may be able to function and continue to work with appropriate health care, but such health care may only be available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare. This demonstration will provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work.

**Title II. Elimination of Work Disincentives.** This title prohibits using work activity as the sole basis for scheduling a continuing disability review and expedites eligibility determinations for individuals that had received SSDI for at least 24 months and engaged in substantial gainful activity during the 36-month period following the end of the trial work period.

**Title III. Ticket to Work and Self-Sufficiency.** Currently, SSDI and SSI disabled beneficiaries believed to benefit from Vocational Rehabilitation (VR) are mostly referred to state VR programs administered by the Department of Education. The "ticket" would enable an SSI and SSDI beneficiary to go to either a public or a participating private provider. The VR provider would be reimbursed based on a portion of benefits saved through either an outcome or "milestone" payment if the beneficiary goes to work and achieves earnings above the SGA. This provision gives more consumer choice in receiving VR services and increases provider incentives to serve SSI and SSDI beneficiaries (Cost: \$17 million over 5)

**Title IV. Work Incentives Planning, Assistance, and Outreach.** This title creates a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals with disabilities on work incentives programs and issues related to such programs. Up to \$23 million per year would be provided by the Social Security Administration (SSA) for grants to states or private agencies and organizations for this type of assistance. In addition, SSA would provide grants to establish and implement programs to provide advocacy and protection to participants in work incentives programs. For 2000 through 2004, \$7 million per year would be granted. Finally, a 12-member Work Incentives Advisory Panel would be created to provide guidance and progress reports on work incentive programs. (Cost: \$92 million over 5)

**Title V. Demonstration Projects and Studies.** This title extends SSA's demonstration authority which expired June 10, 1996 and creates the "\$1 for \$2" demonstration. This demonstration tests the phase-out of disability benefits by \$1 dollar for every \$2 dollars of earnings above a certain level. Finally, the General Accounting Office is required to study tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990; the coordination of SSI and SSDI benefits; and the effects of the substantial gainful activity level effects on work incentives. (Cost: \$55 million over 5)

#### **Title VI. Miscellaneous**

This title contains a number of provisions. The ones that result in CBO savings are:

- **Treatment of prisoners:** Provides SSA payments to institutions that provide information identifying inmates who should not be receiving Social Security benefits and eliminates the requirement that confinement stems from a crime punishable by imprisonment for more than one year. (Savings: \$68 million over 5)
- **Revocation by members of the clergy of exemption from Social Security coverage:** Allows members of the clergy to revoke their exemptions from Social Security coverage. (Savings: \$42 million over 5)
- **Recovery of SSI overpayments from Social Security Benefits:** Allows SSA to recover SSI overpayments owed by former SSI beneficiaries from their OASDI benefits. This recovery would be limited to no more than 10 percent of the beneficiaries' earnings per month (Savings: \$170 million over 5)
- **Disposal of resources for less than fair market value under the SSI program:** An individual who disposes of resources for less than fair market value would lose benefits for the number of months equal to dividing the uncompensated value of disposed resources by the Federal benefit rate. (Savings: \$25 million over 5)
- **No markup for drugs, biologicals and parenteral nutrients:** Medicare currently pays more for 22 of the most common and costly drugs than would be paid if market prices were used. This proposal would ensure that Medicare payments are provider's actual acquisition cost of the drug without mark-ups. (Savings \$600 million over 5)

- **Medicare information requirements:** This proposal would require insurers to report any Medicare beneficiaries they cover. Also, Medicare would be allowed to recoup double the amount owed by insurers who purposely let Medicare pay claims that they should have paid, and impose fines for failure to report no-fault or liability settlements for which Medicare should have been reimbursed. (Savings: \$300 million over 5)
- **Surgical centers:** This proposal would expand HCFA's current surgical centers demonstration that enables Medicare to pay for hospital and physician services for certain high-cost surgical procedures through a single, negotiated payment. This lets Medicare receive volume discounts and, in return, enables hospitals to increase their market share, gain clinical expertise, and improve quality. (Savings: \$300 million over 5)

CHRIS - Totally Wishful thinking on my part, But  
 you CAN'T SAY I DIDN'T TRY. Also, Don't Forget About  
 Draft: PRESIDENT ANNOUNCES SUPPORT FOR POLICIES THAT INCREASE Bryan  
 WORK INCENTIVES AND HEALTH CARE CHOICES FOR  
 PEOPLE WITH DISABILITIES  
 October xx, 1998 (Maybe a Radio Address?)

Today, the President announced actions that bring people with disabilities much closer to two major policy goals: (1) expanding opportunities for people with disabilities to return to work and (2) removing the institutional bias from the Medicaid program, giving people with disabilities the opportunity to live in the community; and (3) encouraging states to take advantage of existing options. The President proudly endorsed the Work Incentives Improvement Act of 1998, that was reintroduced today. This bill provides expanded health options for people with disabilities as well as a "ticket" program that increases the options and incentives for people on SSI and SSDI to get services needed for returning to work. He also announced that the Department of Health and Human Services (HHS) is awarding grants to states to offer the option of home and community-based programs for people living in nursing homes. Together, these actions take large strides toward removing institutional limits on choices related to work and health care for people with disabilities.

**Critical Need to Remove Barriers to Work.** Since 1993, 15 million new jobs have been created in the United States. However, the unemployment rate among the 30 million working-age adults with disabilities continues to be much higher than that of the general population -- close to 75 percent for people with significant disabilities. People with disabilities can bring enormous energy and talent to the American workforce, yet some outdated, institutional barriers limit their ability to work. These include:

- **Access to Medicaid and Medicare ends when people with disabilities return to work:** Under today's rules, people with disabilities who get jobs with decent salaries or who remain disabled but can work because of a medical improvement lose access to Medicaid and Medicare. Ironically, it is often the health services covered by Medicaid and Medicare that enable work. Since private insurance can be prohibitively expensive for people with disabilities, they often face the difficult decision of working without health coverage or not working to maintain health coverage.
- **Health coverage is offered only when the disability is severe enough to make work impossible.** A person with a disabling condition -- muscular dystrophy or severe diabetes, for example -- could possibly remain in the workforce with medical management, but may not be able to afford private health insurance coverage. This leads to a worsening of the condition that makes working more difficult. Eventually, this person may no longer be able to work and end up in the disability system. At that point, the person can receive Medicaid or Medicare, but the costs will be higher than they would have been with early intervention -- to say nothing of the lost potential and health problems caused by this delay.
- **Training and other programs to move people to work are outdated.** The current vocational rehabilitation system relies mostly on state programs and provides few incentives to successfully place people with disabilities in jobs.

**Strong Support for the Work Incentives Improvement Act.** The President endorsed the bill sponsored by Senators Kennedy, Jeffords, Roth and Moynihan that makes removes many of these institutional barriers to work. This bill:

- **Expands the number of workers with disabilities that can buy into Medicaid.** This bill creates two new eligibility options that build on the Balanced Budget Act's (BBA) Medicaid buy-in proposal for workers with disabilities. First, states may cover workers with disabilities with income and/or assets higher than the limits built into BBA. Second, states that take advantage of the first option may extend coverage to workers who lose their disability status due to medical improvement. A grant program of \$150 million would provide funds for infrastructure and outreach for states that take advantages of these new options. In additional, a \$300 million, 5-year demonstration allows a limited number of states to cover workers with disabilities before they become so severely disabled that they have to stop working and go on SSI or SSDI.
- **Extends Medicare coverage for workers with disabilities leaving SSDI.** To remove a disincentive for work, people at the end of Social Security's extended work period can continue to receive Medicare Part A coverage. This option would be available for a ten-year trial period and evaluated to assess whether it is effective and should be continued.
- **Provides a "Ticket To Work".** This proposal would reform the vocational rehabilitation system for people receiving disability benefits under the SSI and SSDI programs who want to return to work, specifically by broadening the types of providers offering such services and extending payment to providers that keep people off of disability benefits.

It also provides important demonstration projects and counseling and assistance services that will help people with disabilities work. According to preliminary estimates by CBO, these provisions cost about \$1.2 billion over 5 years which will be offset by reducing fraud in the Medicare and Supplemental Security Income (SSI) programs.

#### **Announced Grant Program to Foster the Use of Home and Community-Based Services**

The President also congratulated Colorado, Michigan, Rhode Island, and Texas who will receive about \$700,000 in grants to assist them in promoting community-based health options and reducing Medicaid's institutional bias. These projects range from assuring that people being discharged from hospitals who would likely go to nursing homes have an opportunity to choose an alternative setting to providing assistance for nursing home residents who need help in finding a resident in the community. Lessons from these states will help determine what nationwide Medicaid policies can ensure that all people with disabilities who are or might become nursing home residents know about and have the opportunity to choose home and community-based care.

**Encouraging State To Take Existing Options.** At the commemoration of the Americans with Disabilities Act last August, the President directed the HHS to encourage states to take advantage of the BBA option to cover the working disabled. In response, it has approved Oregon's plan to cover this group; provided technical assistance to over 10 states; and will sponsor a workshop for state Medicaid directors on this option. More activities are planned to make this option a reality.

**Jeffords-Kennedy Work Incentives Improvement Act of 1998  
CBO Preliminary Estimates (Fiscal Years, Dollars in Billions)**

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	5-yr 1999-2003	10-yr 1999-2008
<b>Title I: Health Options</b>												
New Medicaid Options	0.034	0.055	0.081	0.109	0.132	0.160	0.187	0.218	0.253	0.284	0.411	1.513
Grants for Outreach	0.020	0.025	0.030	0.035	0.040	0.041	0.042	0.043	0.045	0.046	0.150	0.367
Demonstration	0.010	0.050	0.080	0.080	0.080						0.300	0.300
Medicare extension	0.010	0.025	0.045	0.060	0.085	0.110	0.140	0.170	0.205	0.250	0.225	1.100
<b>Subtotal</b>	<b>0.074</b>	<b>0.155</b>	<b>0.236</b>	<b>0.284</b>	<b>0.337</b>	<b>0.311</b>	<b>0.369</b>	<b>0.431</b>	<b>0.503</b>	<b>0.580</b>	<b>1.086</b>	<b>3.280</b>
<b>Titles II to IV: Ticket and Other Demonstrations</b>												
Ticket	0.001	0.004	0.004	0.007	0.001	-0.011	-0.034	-0.040	-0.046	-0.057	0.017	-0.171
Other Provisions	0.003	0.028	0.035	0.038	0.043	0.051	0.052	0.054	0.054	0.054	0.147	0.412
<b>Subtotal</b>	<b>0.004</b>	<b>0.032</b>	<b>0.039</b>	<b>0.045</b>	<b>0.044</b>	<b>0.040</b>	<b>0.018</b>	<b>0.014</b>	<b>0.008</b>	<b>-0.003</b>	<b>0.164</b>	<b>0.241</b>
<b>Total Spending:</b>	<b>0.078</b>	<b>0.187</b>	<b>0.275</b>	<b>0.329</b>	<b>0.381</b>	<b>0.351</b>	<b>0.387</b>	<b>0.445</b>	<b>0.511</b>	<b>0.577</b>	<b>1.250</b>	<b>3.521</b>
<b>Title IV: Offsets</b>												
Prisoner-related provisions	-0.003	-0.013	-0.015	-0.017	-0.020	-0.020	-0.020	-0.020	-0.020	-0.020	-0.068	-0.168
Open season for clergy	-0.003	-0.008	-0.010	-0.010	-0.011	-0.011	-0.011	-0.012	-0.012	-0.013	-0.042	-0.102
Disposal of resources	-0.001	-0.003	-0.005	-0.007	-0.009	-0.010	-0.011	-0.011	-0.012	-0.013	-0.025	-0.082
End Medicare drug mark-u	-0.100	-0.200	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.200	-0.200	-0.600	-1.300
Medicare Secondary Payer	0.000	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.300	-0.900
Centers of Excellence	0.000	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100	-0.200	-0.500
Medicare interactions	0.000	0.000	0.000	-0.100	-0.100	0.000	-0.100	-0.100	-0.100	-0.200	-0.200	-0.700
<b>Total Offsets:</b>	<b>-0.107</b>	<b>-0.424</b>	<b>-0.330</b>	<b>-0.434</b>	<b>-0.440</b>	<b>-0.341</b>	<b>-0.442</b>	<b>-0.443</b>	<b>-0.544</b>	<b>-0.646</b>	<b>-1.435</b>	<b>-3.752</b>
<b>NET EFFECT</b>	<b>-0.029</b>	<b>-0.237</b>	<b>-0.055</b>	<b>-0.105</b>	<b>-0.059</b>	<b>0.010</b>	<b>-0.055</b>	<b>0.002</b>	<b>-0.033</b>	<b>-0.069</b>	<b>-0.185</b>	<b>-0.231</b>



Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP

cc: Christopher C. Jennings/OPD/EOP, Jeanne Lambrew/OPD/EOP, Cynthia Dailard/OPD/EOP

Subject: Numbers you asked about

Bruce -- the CBO score of the Medicaid works about how I described earlier. It's based on assumptions of how many states will settle suits in the next five years, and the likelihood that HCFA will actually collect the federal share. CBO keeps these assumptions quite close to the vest, and OMB doesn't know what they are. But as the table below shows, CBO expects the federal government in the next five years to recoup about 11.4% of the federal share of the 50 state settlement dollars, which means the following scenarios would be possible:

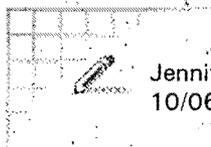
1) Assume 25% of states would settle, and HCFA would recoup 45% of federal funds:

$.25 \times .45 = 11.3\%$

2) Assume 15 percent of states would settle and HCFA would recoup 75% of federal funds:

$.15 \times .75 = 11.3\%$

	FY 99	FY 00	FY 01	FY 02	FY 03	5 YR
McCain Bill State Payments	6.2	4.4	5.0	5.1	5.5	26.2
McCain Bill, Federal Share of State Payments (57%)	3.5	2.5	2.85	2.9	3.1	14.9
Cost of Recoupment Provision	.14	.28	.36	.45	.45	1.7
Recoupment Cost as Percentage of Federal Share	4.0%	11.2%	12.6%	15.5%	14.5%	11.4%



Jennifer L. Klein  
10/06/98 01:21:16 PM

Record Type: Record

To: Christopher C. Jennings/OPD/EOP, Jeanne Lambrew/OPD/EOP

cc:

Subject: Children's Health

Unless one of the two of you stop me, I'm going to have the First Lady mention the radio campaign in general terms in her speech on Friday. You know -- we are doing a campaign in nine states... radio ads... reach hard to reach people... more to come in January, etc. Not -- here are the states, here are the numbers. Okay?

### POSSIBLE OFFSETS FOR DISABILITY BILL

Cost of (Jeffords) Kennedy Disability Bill: \$1.265 billion over 5; \$3.536 billion over 10 years

ORIGINAL SET	STATUS	CBO / JCT
Treatment of prisoners	Still not used	\$68 million / 5 \$165 million / 10
Revocation by members of the clergy of exemption from Social Security coverage	Still not used	\$42 million / 5 \$102 million / 10
Recovery of SSI overpayments from Social Security Benefits	Used	\$170 million / 5 \$320 million / 10
Disposal of resources for less than fair market value under the SSI program	Still not used	\$25 million / 5 \$82 million / 10
No markup for drugs, biologicals and parenteral nutrients **	Controversial; objected to by Roth	\$0.6 billion / 5 \$1.4 billion / 10
Medicare information requirements **	Still not used	\$0.3 billion / 5 \$1.0 billion / 10
Surgical centers (Centers of Excellence) **	Still not used	\$0.3 billion / 5 \$0.5 billion / 10
Erythropoetin reduction **	Jeffords opposes	\$0.1 billion / 5 \$0.4 billion / 10
<b>PATIENT BILL OF RIGHTS TAX OFFSETS</b>		
* Modify foreign tax credit carryback	Still not used	
* Clarify the meaning of "subject to" liabilities under section 357(c)	Still not used	\$49 million / 5
Restrict special net operating loss carryback rules for specified liability losses	May be used for home health	\$104 million / 5
Reinstate Superfund corporate environmental income and excise taxes	Still not used; controversial	
Clarify & expand math error procedures	May be used for home health	\$90 million / 5
Impose excise tax on the purchase of structured settlements	Still not used	
Modify deposit requirement for FUTA	Still not used	

\* Not used, non-controversial - Education

0.073  
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77 mil

### Patients' Bill of Rights Amendment Summary of Revenue Offsets

1) Modify foreign tax credit carryback and carryforward rules.

ON List  
Not Control.

Under current law, foreign tax credits may be carried back to offset tax liability in the previous two years. Unused credits may be carried forward to offset tax liability in the succeeding five years. This proposal, which has been approved previously by the Senate, would reduce the carryback period from two years to one year and extend the carryforward period from five to seven years. The Finance Committee originally approved this change on the grounds that it would reduce some of the complexity associated with carrybacks, while continuing to address the timing differences between US and foreign tax rules. The proposal would be effective for tax years beginning after 12/31/01.

2) Clarify the meaning of "subject to" liabilities under section 357(c).

NOT Control.

A taxpayer generally is required to recognize gain on the transfer of an asset between corporations controlled by the same taxpayer to the extent the sum of the liabilities assumed, plus those to which the transferred asset is subject, exceeds the basis in the asset. If a liability is secured by multiple assets, it is unclear under present law whether a transfer of one asset where the transferor remains liable is a transfer "subject to the liability." This proposal would replace the "subject to the liability" standard. Instead, the extent to which a liability is assumed for federal income tax purposes would be determined on the basis of all the facts and circumstances. In general, if non-recourse indebtedness is secured by more than one asset, and any assets securing the indebtedness are transferred subject to the indebtedness without any indemnity agreements, then for all Federal income tax purposes the transferee would be treated as assuming an allocable portion of the liability based on the relative fair market values of the assets securing the liability.

3) Restrict special net operating loss carryback rules for specified liability losses.

Ext major  
Policy

Under current law, the portion of a net operating loss that qualifies as a specified liability loss (product liability and liabilities that arise under Federal or State law or any tort of the taxpayer) may be carried back ten years rather than two years, which is the general rule. This proposal would clarify that only a limited class of liabilities would qualify for the special ten-year rule. These would include any amount allowable as a deduction that is attributable to a liability under Federal or State law for reclamation of land, decommissioning of a nuclear power plant, dismantlement of an offshore oil drilling platform, remediation of environmental contamination, or payments under workers' compensation statute.

4) Reinstate Superfund corporate environmental income and excise taxes.

Controversial

Beginning in 2000, the proposal would reinstate the small tax on the income of larger corporations and excise taxes on petroleum, chemicals and imported substances which expired on January 1, 1996. As before 1996, these revenues would be deposited in the Hazardous Substance Superfund Trust Fund. The corporate income tax is equivalent to 0.12% of the company's modified alternative minimum taxable (AMT) income in excess of \$2 million. For purpose of this tax, modified AMT income is defined as corporate AMT income, determined without regard to the alternative tax net operating loss deduction and the deduction for the corporate environmental income tax.

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5) Clarify and expand math error procedures.

Extends

Current law provides that if a taxpayer fails to provide a correct taxpayer identification number that is required by statute, the IRS may, when the Social Security number is nonexistent or belongs to an individual with a different name, use the streamlined procedures that are typically reserved for mathematical and clerical errors on tax returns ("math error procedures") in order to expedite the assessment of tax. This proposal would clarify that age discrepancies in verifying eligibility for the child tax credit, the dependent care tax credit, the personal exemption for dependents, the Hope and Lifetime Learning tax credits, and the earned income tax would also be subject to these streamlined procedures. Thus, for purpose of the math error procedures, the term "correct TIN" would be defined as the TIN assigned by the Social Security Administration (SSA) to the individual identified on the return including name, date of birth, and SSN. This would allow the IRS to use the math error procedures to deny eligibility for the particular credit if the taxpayer does not meet the statutory age restrictions for the credit.

6) Impose excise tax on the purchase of structured settlements.

Not used

Current law confers favorable tax treatment to structured personal injury settlements on the grounds that recipients of annuities are less likely than recipients of lump sum awards to consume their awards rapidly and require public assistance. This favorable treatment is conditional upon a requirement that the periodic payments may not be accelerated by the injured person. Nevertheless, certain factoring companies have been purchasing these annuities from recipients for heavily discounted lump sums. This proposal would impose a 20% excise tax on the purchase of structured settlements unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of the recipient render such a sale necessary.

7) Modify deposit requirement for FUTA.

Not used

Under current law, if an employer's liability for Federal unemployment (FUTA) taxes is over \$100 for any quarter, it must be deposited by the last day of the first month after the end of the quarter. Beginning in 2004, under this proposal, employers having more than \$1,100 in annual FUTA tax liability would be required to pay their taxes by the last day of the month following the month in which the tax liability was generated.

Less Not  
Can TRANSFER

Contractive  
Ownership  
Kunahly  
\$120 m/s

Preliminary Estimate of Budgetary Effects of H.R. 4250, The Patient Protection Act, as modified by sponsors

	By fiscal year, in billions of dollars										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
<b>Revenues</b>											
Expand Medical Savings Accounts <sup>a</sup>	0	-0.1	-0.2	-0.3	-0.3	-0.4	-0.4	-0.5	-0.5	-0.6	-0.6
Income and HI Payroll Taxes <sup>a</sup>	0	0	b	b	b	b	b	b	b	b	b
Revenue Offsets <sup>a</sup>	0.6	1.2	0.4	-0.4	-0.8	-1.1	-1.2	0.9	1.3	1.2	N/A
Subtotal, On-Budget	0.6	1.1	0.2	-0.7	-1.1	-1.4	-1.6	0.5	0.8	0.7	N/A
Social Security Payroll Taxes <sup>a</sup>	0	0	b	b	b	b	b	b	b	b	b
Total	0.6	1.1	0.2	-0.7	-1.1	-1.4	-1.6	0.4	0.8	0.7	N/A
<b>Direct Spending</b>											
Effect of Liability Provisions on Medicare and Medicaid Spending	0	0	b	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2
Total	0	0	b	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2

NOTE: N/A = not available.  
Numbers may not add to totals because of rounding.

- a. From the Joint Committee on Taxation.
- b. Costs or savings of less than \$50 million.

**JEFFORDS-KENNEDY SCORING (Noon, Friday)**  
(Dollars in millions, fiscal years)

	<u>2000</u>	<u>2000-2004</u>
Title I: Health		
Medicaid incentive grants / indirect	5	380
Medicaid demonstration	5	215
Medicare	10	260
[DI effect]	2	38
<b>Subtotal</b>	<b>22</b>	<b>890</b>
Title II: CDR change		80
Title III: Ticket to Work		55
Title IV: Work incentives / Bridges	50	50 [\$92 m / 5]
Title V: Demonstrations:		? [\$55 million / 5]
<b>TOTAL:</b>		<b>1075</b>

## SUMMARY OF THE WORK INCENTIVES IMPROVEMENT ACT OF 1998

This bill provides people with disabilities who want to work with new Medicaid and Medicare options and a "ticket" to allow for public or private vocational rehabilitation. It also removes current institutional barriers, provides grants to states and organizations to help connect people with disabilities with appropriate services, and funds demonstrations and studies to better understand policies that will encourage and enable work. Its costs -- \$1.2 billion over 5 years -- are fully offsets by a series of SSA and Medicare fraud provisions.

**Expanded Availability of Health Care Services.** Since health care is essential to enabling people with disabilities to work, this bill creates several new options:

- Medicaid buy-in for workers with disabilities with income or assets above the current limits;
- Medicaid buy-in for workers with disabilities who remain disabled but lose eligibility for Medicaid due to medical improvement; and
- Demonstration of a Medicaid buy-in for people with disabilities that have not yet gotten severe enough to end work and qualify them for disability, Medicaid or Medicare.

The demonstration funding is \$300 million, and \$150 million in grants would be given for infrastructure and outreach to states electing the Medicaid options. (Cost: \$1.09 billion over 5)

**Elimination of Work Disincentives.** Prohibits using work activity as the sole basis for scheduling a continuing disability review and expedites eligibility determinations for individuals who had been on disability insurance but lost it due to work.

**Ticket to Work and Self-Sufficiency.** Creates a "ticket" that enables an SSI or SSDI beneficiary to go to either a public or a private provider of vocational rehabilitation. Providers would be paid a portion of the benefits saved through either an outcome or "milestone" payment if the beneficiary goes to work and achieves substantial earnings. (Cost: \$17 million over 5)

**Work Incentives Planning, Assistance, and Outreach.** Creates (1) a community-based work incentives planning and assistance program to disseminate information to individuals with disabilities on work incentives programs and issues related to such programs; (2) grant program to establish and implement programs to provide advocacy and protection to participants in work incentives programs; and (3) a Work Incentives Advisory Panel to provide guidance and progress reports on work incentive programs. (Cost: \$92 million over 5)

**Demonstration Projects and Studies.** Extends SSA's demonstration authority and creates the "\$1 for \$2" demonstration that phases out benefit with earnings. Also, requires the General Accounting Office to conduct several studies of policies that have effects on work incentives. (Cost: \$55 million over 5)

**Offsets.** This title contains a number of provisions that are oriented toward reducing fraud and overpayments in SSI and Medicare. (Savings: \$1.6 billion over 5)

## SUMMARY OF THE WORK INCENTIVES IMPROVEMENT ACT OF 1998

### **Title I. Expanded Availability of Health Care Services**

**101. Expanding State Options Under Medicaid for Workers with Disabilities.** Two new optional eligibility categories allow states to expand Medicaid coverage to workers with disabilities beyond the current option created in the Balanced Budget Act of 1997 (BBA). The BBA option allows people with disabilities who would be eligible for Supplemental Security Income (SSI) but for earned income up to 250 percent of poverty to buy into Medicaid at a premium set by the state. Prior to the BBA, individuals with disabilities who returned to work would lose Medicaid eligibility -- even if Medicaid services were what enabled them to work.

The first new option allows states to expand this Medicaid buy-in to people with disabilities with earned income above 250 percent of poverty with assets, resources and unearned income limits set by the state. This is important since many workers with disabilities have either assets and resources that exceed the current limit of \$2,000 or are transitioning from Social Security Disability Insurance (SSDI) and have unearned income exceeding the limit of about \$500. (Cost: \$73 million over 5)

The second new option allows states that elect the first option (covering working people with disabilities with assets, resources and unearned income limits set by the state) to also cover people who continue to have a severe medically determinable impairment but lose eligibility for SSI or Social Security Disability Insurance (SSDI) because of medical improvement. Often, such improvements are possible only with health care. For example, a person with rheumatoid arthritis whose condition prevents work could receive disability and health coverage. If, at the annual disability review, laboratory tests were still positive but the therapy and a new drug allowed the person to work, benefits would essentially end. Although this temporary remission is mostly attributable to health care coverage, the improvement would disqualify the person from disability and thus health benefits under current law. This provision would let a state allow this type of person to buy into Medicaid at a premium set by the state. (Cost: \$338 million over 5)

States could not supplant existing state spending with Medicaid funding under these options and would have to maintain effort for current spending for people made eligible under these options.

**Section 102. Continuation of Medicare Coverage for Working Individuals with Disabilities.** A ten-year trial program would allow people who are receiving Medicare because of their receipt of SSDI payments to continue to receive Part A coverage when they return to work. Under current law, people may receive Medicare coverage when they are in their trial work period and extended period of eligibility, but after that 39-month period, would have to pay the full Medicare Part A premium. In many cases, people returning to work following SSDI either work part time and thus are not eligible for employer-based health insurance or work in jobs that do not offer insurance. This leaves them no alternative to the individual insurance market which can charge people with pre-existing conditions exorbitant premiums in most states. This option, which allows these workers to maintain their Medicare coverage, will serve as an important incentive to return to work. (Cost: \$225 million over 5)

**Sec. 103. Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities.** A grant program would give states funds to support the design, establishment and operation of infrastructures that provide items and services to support working individuals with disabilities. Funds could also be used for outreach campaigns to connect people with disabilities with resources. A total of \$150 million will be available for the first 5 years, and annual amounts will be increased at the rate of inflation for 2004 through 2009. Then, the Secretary of Health and Human Services will recommend whether the program is still needed.

States are eligible for these grants if they take one or both of the new eligibility options for working individuals with disabilities created and provide personal assistance needed to enable working people with disabilities to maintain employment. States meeting these criteria would receive a grant no less than \$500,000 and no more than equal to 15 percent of expenditures on medical assistance for individuals eligible under the new state options. Funds are available to states until expended.

**Sec. 104. Demonstration of Coverage of Workers with Potentially Severe Disabilities.** A demonstration program will allow states to give health care coverage through Medicaid to workers that, as defined by the State, have a disability that without health care could become severe enough to qualify them for SSI or SSDI. Funding of \$300 million will be available for this demonstration, which will sunset at the end of FY 2004. States can participate in this demonstration if they have opted to expand coverage through at least one of the new Medicaid eligibility options for workers with disabilities. People covered in this demonstration will receive the same health benefits and pay the same premiums as these workers with disabilities.

This demonstration is intended to help people with a specific physical or mental impairment that, as defined by the state, is reasonably expected to lead to a severe disability without medical assistance. For example, a person with muscular dystrophy, Parkinson's Disease, or diabetes may be able to function and continue to work with appropriate health care, but such health care may only be available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare. This demonstration will provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work.

**Title II. Elimination of Work Disincentives.** This title prohibits using work activity as the sole basis for scheduling a continuing disability review and expedites eligibility determinations for individuals that had received SSDI for at least 24 months and engaged in substantial gainful activity during the 36-month period following the end of the trial work period.

**Title III. Ticket to Work and Self-Sufficiency.** Currently, SSDI and SSI disabled beneficiaries believed to benefit from Vocational Rehabilitation (VR) are mostly referred to state VR programs administered by the Department of Education. The "ticket" would enable an SSI and SSDI beneficiary to go to either a public or a participating private provider. The VR provider would be reimbursed based on a portion of benefits saved through either an outcome or "milestone" payment if the beneficiary goes to work and achieves earnings above the SGA. This provision gives more consumer choice in receiving VR services and increases provider incentives to serve SSI and SSDI beneficiaries (Cost: \$17 million over 5)

**Title IV. Work Incentives Planning, Assistance, and Outreach.** This title creates a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals with disabilities on work incentives programs and issues related to such programs. Up to \$23 million per year would be provided by the Social Security Administration (SSA) for grants to states or private agencies and organizations for this type of assistance. In addition, SSA would provide grants to establish and implement programs to provide advocacy and protection to participants in work incentives programs. For 2000 through 2004, \$7 million per year would be granted. Finally, a 12-member Work Incentives Advisory Panel would be created to provide guidance and progress reports on work incentive programs. (Cost: \$92 million over 5)

**Title V. Demonstration Projects and Studies.** This title extends SSA's demonstration authority which expired June 10, 1996 and creates the "\$1 for \$2" demonstration. This demonstration tests the phase-out of disability benefits by \$1 dollar for every \$2 dollars of earnings above a certain level. Finally, the General Accounting Office is required to study tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990; the coordination of SSI and SSDI benefits; and the effects of the substantial gainful activity level effects on work incentives. (Cost: \$55 million over 5)

#### **Title VI. Miscellaneous**

This title contains a number of provisions. The ones that result in CBO savings are:

- **Treatment of prisoners:** Provides SSA payments to institutions that provide information identifying inmates who should not be receiving Social Security benefits and eliminates the requirement that confinement stems from a crime punishable by imprisonment for more than one year. (Savings: \$68 million over 5)
- **Revocation by members of the clergy of exemption from Social Security coverage:** Allows members of the clergy to revoke their exemptions from Social Security coverage. (Savings: \$42 million over 5)
- **Recovery of SSI overpayments from Social Security Benefits:** Allows SSA to recover SSI overpayments owed by former SSI beneficiaries from their OASDI benefits. This recovery would be limited to no more than 10 percent of the beneficiaries' earnings per month (Savings: \$170 million over 5)
- **Disposal of resources for less than fair market value under the SSI program:** An individual who disposes of resources for less than fair market value would lose benefits for the number of months equal to dividing the uncompensated value of disposed resources by the Federal benefit rate. (Savings: \$25 million over 5)
- **No markup for drugs, biologicals and parenteral nutrients:** Medicare currently pays more for 22 of the most common and costly drugs than would be paid if market prices were used. This proposal would ensure that Medicare payments are provider's actual acquisition cost of the drug without mark-ups. (Savings \$600 million over 5)

- **Medicare information requirements:** This proposal would require insurers to report any Medicare beneficiaries they cover. Also, Medicare would be allowed to recoup double the amount owed by insurers who purposely let Medicare pay claims that they should have paid, and impose fines for failure to report no-fault or liability settlements for which Medicare should have been reimbursed. (Savings: \$300 million over 5)
- **Surgical centers:** This proposal would expand HCFA's current surgical centers demonstration that enables Medicare to pay for hospital and physician services for certain high-cost surgical procedures through a single, negotiated payment. This lets Medicare receive volume discounts and, in return, enables hospitals to increase their market share, gain clinical expertise, and improve quality. (Savings: \$300 million over 5)

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## SUMMARY OF THE WORK INCENTIVES IMPROVEMENT ACT

### **Title I. Expanded Availability of Health Care Services**

#### **101. Expanding State Options Under Medicaid for Workers with Disabilities.**

Two new optional eligibility categories allow states to expand Medicaid coverage beyond the current option, created in the Balanced Budget Act of 1997 (BBA). The BBA option allows people with disabilities who would be eligible for Supplemental Security Income (SSI) but for earned income up to 250 percent of poverty to buy into Medicaid at a premium set by the state.

The first new option allows states to expand this Medicaid buy-in to people with disabilities with earned income above 250 percent of poverty with assets, resources and unearned income limits set by the state. This is important since many workers with disabilities have either assets and resources that exceed the current limit of \$3,000 or are transitioning from Social Security Disability Insurance (SSDI) and have unearned income exceeding the limit of \$500.

The second new option allows states that take the first option (covering working people with disabilities with assets, resources and unearned income limits set by the state) to also cover people who continue to have a severe medically determinable impairment but lose eligibility for SSI or Social Security Disability Insurance (SSDI) because of medical improvement. An example of who benefits from this option is a person with rheumatoid arthritis who cannot work because of this condition. At the disability review a year later, laboratory tests were still positive for rheumatoid arthritis, but the impairment responded favorably to therapy and a new drug, so that the pain subsided enough for the person to return to work. Although this temporary remission is mostly attributable to health care coverage, the improvement would disqualify the person from disability and thus health benefits under current law. This provision would let a state allow this type of person to buy into Medicaid at a premium set by the state.

States could not supplant existing state spending with Medicaid funding under these options and would have to maintain effort for current spending for people made eligible under these options.

#### **Section 102. Continuation of Medicare Coverage for Working Individuals with Disabilities.**

A ten-year trial program would allow people who are receiving Medicare because of their receipt of SSDI payments to continue to receive Part A coverage when they return to work. Under current law, people may receive Medicare coverage when they are in their trial work period and extended period of eligibility, but after that 39-month period, would have to pay the full Medicare Part A premium. In many cases, people returning to work following SSDI either work part time and thus are not eligible for employer-based health insurance or work in jobs that do not offer insurance. This leaves them no alternative to the individual insurance market which, in most states, can charge people with pre-existing conditions exorbitant premiums. This option allows these workers to maintain their Medicare coverage that will serve as an important incentive to return to work.

### **Sec. 103. Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities.**

A grant program would give states funds to support the design, establishment and operation of State infrastructures that provide items and services to support working individuals with disabilities. Funds could also be used for outreach campaigns to connect people with disabilities with existing resources. A total of \$150 million in funding will be available for the first 5 years, and annual amounts will be increased at the rate of general inflation for the years 2004 through 2009. At that point, the Secretary of Health and Human Services will recommend whether the program is still needed.

States are eligible for these grants if they take one or both of the new eligibility options for working individuals with disabilities created and provide personal assistance needed to enable working people with disabilities to maintain employment. States meeting these criteria would receive a grant no less than \$500,000 and no more than equal to 15 percent of expenditures on medical assistance for individuals eligible under the new state options. Funds are available to states until expended.

### **Sec. 104. Demonstration of Coverage of Workers with Potentially Severe Disabilities**

A demonstration program will allow states to give health care coverage through Medicaid to workers that, as defined by the State, have a disability that without health care could become severe enough to qualify them for SSI or SSDI. Funding of \$300 million will be available for this demonstration, which will sunset at the end of FY 2004. States can participate in this demonstration if they have opted to expand coverage through at least one of the new Medicaid eligibility options for workers with disabilities, and must offer people covered in this demonstration the same health benefits.

This demonstration is intended to help people with a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected to lead to a severe disability without medical assistance. For example, a person with muscular dystrophy or Parkinson's Disease may be able to function and continue to work with appropriate health care, but such health care is only available once their conditions have become severe enough to qualify them for SSI or SSDI and thus Medicaid or Medicare. This demonstration will provide new information on the cost effectiveness of early health care intervention in keeping people with disabilities from becoming too disabled to work.

**Draft: PRESIDENT ANNOUNCES MAJOR STEPS TOWARDS INCREASING  
WORK INCENTIVES AND HEALTH CARE CHOICES FOR  
PEOPLE WITH DISABILITIES**

*Today, the President announced actions that bring people with disabilities much closer to two major policy goals: (1) gaining new options for health coverage and incentives for adults with disabilities to return to work and (2) removing the institutional bias from the Medicaid program, giving people with disabilities the opportunity to live in the community. The President proudly endorsed the Work Incentives Improvement Act of 1998, that was reintroduced today. This bill provides expanded health options for people with disabilities as well as a "ticket" program that enables people on SSI and SSDI to get services needed for returning to work through the private sector. He also announced that the Department of Health and Human Services (HHS) is awarding grants to states to offer the option of home and community-based programs for people living in nursing homes. Together, these actions take large strides toward removing institutional limits on choices related to work and health care for people with disabilities.*

**Urged Congress to Act Now on the Work Incentives Improvement Act.** The President endorsed the bill sponsored by Senators Kennedy, Jeffords, Roth and Moynihan that:

- **Expands the number of workers with disabilities that can buy into Medicaid.** The Balanced Budget Act included a Presidential priority: a new Medicaid option that allows people with disabilities with earnings up to 250 percent of poverty to pay a premium for Medicaid coverage. This bill would expand this option, giving states the flexibility to cover workers with disabilities regardless of their income or assets. It would also allow states that have covered people meeting the Social Security definition of disability to also cover workers with lesser disabilities -- recognizing that a considerable number of people with disabilities do not meet Social Security's rigorous definition but cannot easily find adequate, affordable private insurance. A grant program of \$300 million would provide funds for infrastructure and outreach for states that take advantages of these new options.
- **Extends Medicare coverage for workers with disabilities leaving SSDI.** Currently, at the end of Social Security's extended work period, people with disabilities lose assistance in paying the Medicare Part A premiums, which is \$309 a month in 1998. This bill extends this coverage to people leaving SSDI for work for a ten-year trial period.
- **Provides a "Ticket To Work".** This proposal would reform the vocational rehabilitation system for people receiving disability benefits under the SSI and SSDI programs who want to return to work, specifically by broadening the types of providers offering such services and extending payment to providers that keep people off of disability benefits.

According to CBO, these provisions cost about \$1.3 billion over 5 years which will be offset by reducing fraud in the Medicare and Supplemental Security Income (SSI) programs.

### **Grant Program to Foster the Use of Home and Community-Based Services**

Today, HHS announced that Colorado, Michigan, Rhode Island, and Texas will receive about \$700,000 in grants to assist them in promoting community-based health options and reducing Medicaid's institutional bias. Specifically:

- **Colorado** will focus on assuring that people being discharged from hospitals who would likely go to nursing homes have an opportunity to choose an alternative setting.
- **Michigan** will develop models for outreach to people residing in nursing facilities to identify those interested in residing in an alternative setting and assisting them in making the transition to these settings.
- **Rhode Island** will assist people with and develop models for community-based care for people with traumatic brain injury who are unable to direct their own care and therefore not eligible for the personal care attendant program.
- **Texas** will implement a Transitions to Living in the Community program to provide cash assistance for nursing home residents need help in finding a resident in the community; will cover the costs of community care before final eligibility for it is determined (presumptive eligibility); and will develop a public advisory group and network.

Lessons from these states will help determine what nationwide Medicaid policies can ensure that all people with disabilities who are or might become nursing home residents know about and have the opportunity to choose home and community-based care.

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Attached is the most recent  
legislative language for the  
SSI offset proposals.

Please call if you have  
any questions.

- Joanne  
x53385

Attached is draft legislati

Chris -

1. **Recovery of SSI Overpayment** included in the FY 1998 Budget. Shaw is working on the Administration's language for the overpayment through the

There is some interest in whether waiver rules apply (i.e., for beneficiaries income)

Attached is the most recent legislative language for the SSI offset proposals.

Please call if you have any questions.

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x 53385

2. **SSI Program Integrity Act**

The attached language is what SSA transmitted to the Hill in May. The provisions not included on the offset list have negligible cost/savings effects. One provision -- access to information held by financial institutions -- is currently being scored by the actuaries (they did not have enough information to estimate savings until recently).

3. **Rep. Shaw's Revisions.** Since SSA transmitted the SSI Program Integrity Act to the Hill, SSA has provided technical assistance to Rep. Shaw's staff. Rep. Shaw accepted most of the SSA language and plans to introduce the bill in September (not pushing for a markup this session). **The revised language for the provisions regarding assets held in trust and the disposal of resources are attached. SSA agrees with these changes.** FYI, here is a summary of the changes Rep. Shaw has made include:

- **Accelerated Provision of State Death Data.** Rep. Shaw wants to include a system of reward payments (i.e., similar to the payments to prisons) to states that provide data within 30 days. Legislative language has not been drafted.
- **Prisoner Reporting Requirement.** Rep. Shaw's bill does not include this provision.
- **Additional Debt Collection Practices.** Rep. Shaw's bill makes the use of these additional debt collection practices mandatory rather than permissive. SSA prefers they not be mandated.
- **Treatment of Assets Held in Trust.** New language, that makes the provision consistent with rules under the Medicaid program, is attached.
- **Disposal of Resources for Less than Fair Market Value.** New language, that makes the provision consistent with rules under the Medicaid program, is attached. The Arc wants a provision that makes putting your assets in a trust for someone else equivalent to disposing of them for less than fair market value.
- **Loss of Benefits Penalty for Program Violations.** There were some technical problems with this language and more drafting is needed.

Attached is draft legislative language for the SSI program integrity proposals.

1. **Recovery of SSI Overpayments from Social Security Benefits.** This proposal was included in the FY 1999 President's Budget. The attached language is from a bill Rep. Clay Shaw is working on to address SSI as a high risk program. This language is the same as the Administration's language except that it states that SSA "shall" (rather than "may") recover the overpayment through this mechanism.

There is some interest from the democratic staff to include a provision to ensure that the SSI waiver rules apply (i.e., the overpayment deduction cannot be more than 10 percent of a beneficiaries income). This language is yet to be drafted.

2. **SSI Program Integrity Act.** This bill includes the remaining proposals on our offset list. **The attached language is what SSA transmitted to the Hill in May.** The provisions not included on the offset list have negligible cost/savings effects. One provision -- access to information held by financial institutions -- is currently being scored by the actuaries (they did not have enough information to estimate savings until recently).
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- **Loss of Benefits Penalty for Program Violations.** There were some technical problems with this language and more drafting is needed.

1 amended further by adding at the end the following  
2 new paragraph:

3 "(3) The Commissioner shall not refrain from recov-  
4 ering overpayments from resources currently available to  
5 any overpaid person or to such person's estate solely be-  
6 cause such individual is confined as described in clause  
7 (i) or (ii) of section 202(x)(1)(A)."

8 (2) AMENDMENT TO TITLE XVI.—Section  
9 1631(b)(1)(A) of such Act (42 U.S.C.  
10 1383(b)(1)(A)) is amended by adding after and  
11 below clause (ii) the following flush left sentence:

12 "The Commissioner shall not refrain from recovering over-  
13 payments from resources currently available to any indi-  
14 vidual solely because the individual is confined as de-  
15 scribed in clause (i) or (ii) of section 202(x)(1)(A)."

16 **SEC. 7. RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL**  
17 **SECURITY BENEFITS.**

18 (a) IN GENERAL.—Part A of title XI of the Social  
19 Security Act is amended by adding at the end the follow-  
20 ing new section:

21 "RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL  
22 SECURITY BENEFITS

23 "SEC. 1147. (a) IN GENERAL.—Whenever the Com-  
24 missioner of Social Security determines that more than  
25 the correct amount of any payment has been made to any  
26 person under the supplemental security program under

1 title XVI of this Act (including, for purposes of this sec-  
2 tion, under section 1616(a) of this Act or section 212(b)  
3 of Public Law 93-66), and the Commissioner is unable to  
4 make proper adjustment or recovery of the amount so in-  
5 correctly paid as provided in section 1631(b) of this Act,  
6 the Commissioner (notwithstanding section 207 of this  
7 Act) <sup>MAY</sup> shall recover the amount incorrectly paid by decreas-  
8 ing any amount which is payable under title II of this Act  
9 to such person.

10 (b) NO EFFECT ON SSI ELIGIBILITY OR BENEFIT  
11 AMOUNT.—In any case in which the Commissioner of So-  
12 cial Security takes action in accordance with subsection  
13 (a) to recover an amount incorrectly paid to any person,  
14 neither that person, nor any individual whose eligibility  
15 for benefits under the supplemental security income pro-  
16 gram under title XVI, or whose amount of such benefits,  
17 is determined by considering any part of that person's in-  
18 come, shall, as a result of such action—

19 (1) become eligible for benefits under such  
20 program, or

21 (2) if such person or individual is otherwise so  
22 eligible, become eligible for increased benefits under  
23 such program.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 204 of such Act (42 U.S.C. 404) is  
2 amended by adding at the end the following:

3 "(g) For payments which are adjusted or withheld  
4 to recover an overpayment of supplemental security in-  
5 come benefits paid under title XVI of this Act (including  
6 State supplementary payments paid under an agreement  
7 pursuant to section 1616(a) of this Act or section 212(b)  
8 of Public Law 93-66), see section <sup>1148</sup>~~1147~~."

9 (2) Section 1631(b) of such Act (42 U.S.C.  
10 1383(b)) is amended by adding at the end the fol-  
11 lowing:

12 "(8) For provisions relating to the recovery of bene-  
13 fits incorrectly paid under this title from benefits payable  
14 under title II, see section <sup>1148</sup>~~1147~~."

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect upon the date of the enact-  
17 ment of this Act and shall apply to amounts incorrectly  
18 paid which remain outstanding on or after such date.

19 ~~SEC. 8. ADDITIONAL DEBT COLLECTION PRACTICES.~~

20 (a) ~~IN GENERAL.—Section 1631(d)(1) of the Social~~  
21 ~~Security Act (42 U.S.C. 1383(d)(1)) is amended by strik-~~  
22 ~~ing "section 207" and inserting "sections 204(f) and~~  
23 ~~207".~~

NOTE:  
If provision  
remains  
mandatory,  
then effective  
date would  
have to  
be delayed.

## Supplemental Security Income Program Integrity Act of 1998

### Section-by-Section Summary

#### Short Title

Section 1 would provide that the Act may be cited as the "Supplemental Security Income Program Integrity Act of 1998."

#### Computer Matches with Medicaid Institutionalization Data

Section 2 would require the Commissioner of Social Security to conduct periodic matches with Medicare and Medicaid data held by the Secretary of Health and Human Services, and would authorize the Commissioner to substitute information from the matches for the physician's certification otherwise required in order to maintain the full benefit level of an individual whose institutionalization is expected to last fewer than three months.

#### Access to Information Held by Financial Institutions

Section 3 would provide that the Commissioner of Social Security may request Supplemental Security Income applicants and recipients to provide authorization for the Commissioner to obtain any and all financial records from any and all financial institutions. These authorizations would be valid during the pendency of an application and during eligibility for benefits unless revoked in writing. The Commissioner need not furnish to the financial institution copies of the authorizations or written certification of compliance with the provisions of the Right to Financial Privacy Act. As under current law, refusal to provide, or revocation of, an authorization may result in the Commissioner determining a person to be ineligible for Supplemental Security Income.

#### State Data Exchanges

Subsection (a) of section 4 would deem the Social Security Administration's data privacy standards to meet all State standards for purposes of sharing data.

#### Accelerated Provision of State Death Data

Section 5 would require States having contracts with the Commissioner of Social Security for the provision of death data to provide the data within 30 days of its receipt.

#### Prisoner Reporting Requirement

This section requires Federal, State, and local institutions incarcerating individuals subject to the SSI prisoner nonpayment provision to furnish certain inmate information upon the request of the Commissioner. The provision requires matching of prisoner populations at the Federal, State and local level with records of

SSI Program Integrity Act

2

SSI beneficiaries. Matches between SSA and non-Federal entities will be exempt from the administrative requirements of the Computer Matching and Privacy Protection Act (e.g., a formal matching agreement with each entity). The section also removes the provision in the Social Security Act which removed all Privacy Act rights and requirements from information which is the subject of these matches (i.e., information about prisoners).

#### Additional Debt Collection Practices

Section 7 would extend to the Supplemental Security Income program all of the debt collection authorities currently available for the collection of overpayments under the Social Security program.

#### Treatment of Assets Held in Trust

Section 8 would include in the resources of an individual countable for Supplemental Security Income purposes the assets of any trust containing property transferred from the individual or his or her spouse to the extent that the assets could be used for the benefit of either of them. The Commissioner of Social Security would be authorized to waive application of this provision in the event it would work an undue hardship. This provision would complement, but not replace, similar rules under Medicaid.

#### Disposal of Resources for Less Than Fair Market Value

Section 9 would provide a penalty under the Supplemental Security Income program for the transfer of assets at less than fair market value. The penalty would be a loss of benefits for a number of months equal to the number of months obtained by dividing the uncompensated value of disposed-of resources by the Federal benefit rate. The Commissioner of Social Security would be authorized to waive application of this provision in the event it would work an undue hardship. This provision would complement, but not replace, similar rules under Medicaid.

#### Loss of Benefits Penalty for Program Violations

Section 10 would authorize the Commissioner of Social Security to impose a period of ineligibility for OASDI and Supplemental Security Income benefits on any individual upon making a determination that the individual has made a statement or representation of material fact for use in determining eligibility to benefits, that the individual knew or should have known was false or misleading or omitted a material fact or made such a statement with knowing disregard for the truth. The period of ineligibility would be 6 months for a first occurrence, 12 months for a second occurrence, and 24 months for a third or subsequent occurrence, and would extend to both programs.

A B I L L

To make improvements in the administration of the Supplemental Security Income program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Supplemental Security Income Program Integrity Act of 1998".

SEC. 2. COMPUTER MATCHES WITH MEDICARE AND MEDICAID INSTITUTIONALIZATION DATA.

(a) In General.--Section 1611(e)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(J) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under title XVIII or XIX of this Act. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i)."

(b) Conforming Amendment.--Section 1611(e)(1)(G) is amended by striking "subparagraph (H)" and inserting "subparagraph (H) or (J)".

SEC. 3. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.

2

(a) In General.--Section 1631(c)(1)(B) of the Social Security Act is amended--

(1) by striking "(B)" and inserting "(B)(i)"; and

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

"(ii) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this title to provide authorization by such applicant or recipient (or by any other person whose income or resources are material to the determination of the individual's eligibility) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by such institution respecting such applicant or recipient (or any other person whose income or resources are material to the determination of the individual's eligibility) whenever the Commissioner determines such record is needed in connection with a determination respecting the individual's eligibility for benefits under this title (whether initial or continuing) or respecting the amount of such benefits. Such authorization shall, notwithstanding paragraph (1) of section 1104(a) of such Act, remain effective until--

"(I) a final adverse decision is rendered on the individual's application for eligibility for benefits under this title,

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"(II) the individual's eligibility for benefits under this title ceases, or

"(III) the individual (or such other person) expressly revokes the authorization in a written notification to the Commissioner,

whichever occurs first. Authorizations obtained by the Commissioner pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act for the purpose of section 1103(a) of such Act and need not be furnished to the financial institution notwithstanding such requirement in section 1104(a) of such Act. The certification requirements of section 1103(b) of such Act shall not apply to requests by the Commissioner pursuant to an authorization obtained under this clause. Any requests by the Commissioner pursuant to an authorization obtained under this clause shall be deemed to meet the requirements of section 1104(a)(3) and the flush language of section 1102 of the Right to Financial Privacy Act. The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization under this clause. If an applicant for, or recipient of, benefits under this title (or any other person whose income or resources are material to the determination of the applicant's or recipient's eligibility for such benefits) refuses to provide or revokes any authorization for the

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Commissioner to obtain from any financial institution any financial record, the Commissioner may, on that basis, determine that the applicant or recipient is ineligible for benefits under this title."

(b) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act.

#### SEC. 4. STATE DATA EXCHANGES.

Whenever the Commissioner of Social Security requests information from a State for the purpose of ascertaining an individual's eligibility for benefits (or the correct amount of such benefits) under title XVI of the Social Security Act, the standards of the Commissioner promulgated pursuant to section 1106 of the Social Security Act or any other Federal law for the use, safeguarding, and disclosure of information shall be deemed to meet any standards of the State that would otherwise apply to the disclosure of information by the State to the Commissioner.

#### SEC. 5. ACCELERATED PROVISION OF STATE DEATH DATA.

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

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

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## SEC. 6. PRISONER REPORTING REQUIREMENT.

(a) Amendments to Title XVI of the Social Security Act.--  
Section 1611(e)(1) of the Social Security Act (as previously  
amended by this Act) is further amended--

(1) in subparagraph (I)(ii), by striking "(I)" and all  
that follows through "(II)"; and

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

"(K) Any agency of the United States Government shall make  
available to the Commissioner of Social Security, upon request,  
the name and social security account number of any individual who  
is confined as described in section 202(x)(1)(A) if the  
confinement is under the jurisdiction of such agency and the  
Commissioner of Social Security requires such information to  
carry out the provisions of this subsection.

"(L) Any agency of any State (or political subdivision  
thereof) shall make available to the Commissioner of Social  
Security, upon request, the name and social security account  
number of any individual who is confined as described in section  
202(x)(1)(A) if the confinement is under the jurisdiction of such  
agency and the Commissioner of Social Security requires such  
information to carry out the provisions of this subsection."

(b) Amendment to Title 5, United States Code.--Section  
552a(a)(8)(B) of title 5, United States Code, is amended--

- (1) by striking "or" at the end of clause (vi);
- (2) by adding "or" at the end of clause (vii); and
- (3) by adding at the end the following new clauses:

"(viii) matches performed pursuant to subparagraph (1) or (b) of section 1611(e)(1) of the Social Security Act."

SEC. 7. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) In General.--Section 1631(d)(1) of the Social Security Act is amended by striking "section 207" and inserting "section 207, section 204(f),".

(b) Effective Date.--The amendment made by this section shall apply to debt outstanding on or after the date of the enactment of this Act.

SEC. 8. TREATMENT OF ASSETS HELD IN TRUST.

(a) Treatment as Resource.--Section 1613 of the Social Security Act is amended by adding at the end the following new subsection:

*See Shaw's language*

"Trusts

"(c)(1) In determining the resources of an individual, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2) (A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual (or the individual's spouse) were transferred to the

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trust.

"(B) In the case of an irrevocable trust to which were transferred the assets of an individual (or the individual's spouse) and the assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual (or the individual's spouse).

"(C) This subsection shall apply without regard to--

"(i) the purposes for which the trust is established;

"(ii) whether the trustees have or exercise any discretion under the trust;

"(iii) any restrictions on when or whether distributions may be made from the trust; or

"(iv) any restrictions on the use of distributions from the trust.

"(3) (A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual or the individual's spouse, the portion of the corpus from which payment to or for the benefit of the individual or the individual's spouse could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this

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subsection with respect to any individual if the Commissioner determines that such application would work an undue hardship on such individual.

"(b) For purposes of this subsection--

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual or the individual's spouse, including--

"(i) any income otherwise excluded by section 1612(b),

"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual or the individual's spouse is entitled to but does not receive or have access to because of action by--

"(I) such individual or spouse;

"(II) a person or entity (including a court)

with legal authority to act in place of, or on behalf of, such individual or spouse; or

"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual or spouse; and

"(D) the term 'benefits under this title' includes State supplementary payments which are paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66.

"(6) For provisions respecting the penalty that may apply to an individual who transfers an asset to a trust, see subsection (c)(1) (especially subparagraphs (A) and (D) thereof)."

(b) Treatment as Income.--Section 1612(a)(2) of such Act is amended--

- (1) by striking "and" at the end of subparagraph (E);
- (2) by striking the period at the end of subparagraph (F) and inserting "; and"; and
- (3) by adding at the end the following new subparagraph:

"(G) any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies)

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(provided, in the case of an irrevocable trust, that there exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual). For purposes of this subparagraph, the terms 'trust' and 'corpus' have the meanings given them in section 1613(c)(5).".

(c) Effective Date.--The amendments made by this section shall take effect on January 1, 1999, and shall apply to trusts established on or after such date.

SEC. 9. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.

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

*See  
Shaw's  
language*

(1) in the caption, by striking "Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking "(2)" and inserting "(B)";

(4) by striking "(c)(1)" and inserting "(2)(A)";

(5) by inserting before paragraph (2) (as redesignated by paragraph (4) of this subsection) the following:

"(c)(1) Penalty.--

"(A)(i) If an individual or the spouse of such an individual disposes of resources for less than fair market

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value on or after the look-back date specified in subclause (I) of clause (ii), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii)(I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of such individual) disposes of resources for less than fair market value.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which resources were transferred for less than fair market value and that does not occur in any other period of ineligibility under this paragraph.

"(iv) The number of months of ineligibility under this clause shall be equal to--

"(I) the total, cumulative uncompensated value of all resources transferred by the individual (or the spouse of such individual) on or after the look-back date specified in subclause (I) of clause (ii), divided

by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) for the month in which occurs the date specified in subclause (II) of clause (ii),

and rounded up, in the case of any fraction, to the next whole number.

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that--

"(i) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title; or

"(ii) the denial of eligibility would work an undue hardship on the individual.

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

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"(D)(i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (c)(3) (or would be so considered, but for the application of subsection (c)(4)).

"(ii) In the case of a trust established by an individual or the individual's spouse (within the meaning of paragraph (2)(A) of subsection (a)), if from such portion of the trust, if any, that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (4) of such subsection) or the residue of such portion upon the termination of the trust--

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual's spouse subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(E) In the case of a transfer by the spouse of an

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individual that results in a period of ineligibility for such individual under subparagraph (A) or (D)(ii), the Commissioner shall apportion such period of ineligibility (or any portion of such period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for benefits under this title.

"(F) For purposes of this paragraph--

"(i) the term 'benefits under this title' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-65); and

"(ii) the term 'trust' has the meaning given such term in subsection (c)(5)(A).".

(b) Conforming Amendments.--Section 1613(c)(2) of the Social Security Act (as redesignated by subsection (a) of this section) is amended:--

(1) by striking "(2)(A)" and inserting "(2) Notice; Availability of Information.--(A)";

(2) in subparagraph (A)(i)--

(i) by inserting "paragraph (1) and" after "provisions of";

(ii) by striking "title XIX" the first place such phrase appears and inserting "this title and title XIX, respectively,";

(iii) by striking "subparagraph (B)" and inserting "clause (ii)"; and

(iv) by striking "paragraph (2)" and inserting "subparagraph (B)";

(3) in subparagraph (A)(ii)--

(i) by striking "by the State agency"; and

(ii) by striking "section 1917(c)" and all that follows and inserting "paragraph (1) or section 1917(c)."; and

(4) in subparagraph (B), by striking "paragraph (1)(B)" and inserting "subparagraph (A)(ii)".

(c) Effective Date.--The amendments made by this section shall be effective with respect to transfers of resources for less than fair market value that on or after the date of enactment of this Act.

SEC. 10. LOSS OF BENEFITS FOR PROGRAM VIOLATIONS.

(a) In General.--Title XI of the Social Security Act is amended by inserting after section 1129 the following section:

"SEC. 1129A. NONPAYMENT OF BENEFITS UNDER TITLES II AND XVI FOR FALSE OR MISLEADING STATEMENTS OR OMISSIONS.

"(a) In General.--Any person who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of -

"(A) monthly insurance benefits under title II, or

"(B) benefits or payments under title XVI, that the person knows or should know is false or misleading or knows or should know omits a material fact or makes such a statement with knowing disregard for the truth shall be subject to a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

"(b) Penalty.--The penalty described in this subsection is--

"(1) nonpayment of benefits under title II that would otherwise be payable to such individual, and

"(2) ineligibility for cash benefits under title XVI, for each month during the applicable period that begins and ends as specified in subsection (c).

"(c) Duration of Penalty.--The duration of the penalty described in subsection (b) shall be--

"(A) 6 consecutive months, in the case of a first determination by the Commissioner described in subsection (a) respecting such individual;

"(B) 12 consecutive months, in the case of a second determination by the Commissioner described in subsection (a) respecting such individual; and

"(C) 24 consecutive months, in the case of a third or subsequent determination by the Commissioner described in paragraph (1) respecting such individual.

"(d) Effect on Other Assistance.--An individual subject to a

period of nonpayment of title II or ineligibility for title XVI benefits pursuant to this section, nevertheless shall be considered to be receiving such benefits for the purposes of--

"(1) determination of the eligibility of such an individual for benefits under title XVIII and title XIX; and

"(2) determination of the eligibility or amount of benefits payable under title II or title XVI to another individual.

"(e) Definition.--For purposes of this section, the term 'benefits under title XVI' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) or this Act or section 212(b) of Public Law 93-66).".

(b) Conforming Amendment Precluding Delayed Retirement Credit for any Month to Which a Nonpayment of Benefits Penalty Applies.--Section 202(w) (2) (B) of such Act is amended--

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii)

and inserting ", and"; and

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

"(iii) such individual was not subject to any nonpayment of benefits penalty imposed pursuant to section 1129A.".

(c) The amendments made by this section shall be effective upon the date of the enactment of this Act.

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~~1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to debt outstanding on or after  
3 the date of the enactment of this Act.~~

4 **SEC. 9. TREATMENT OF ASSETS HELD IN TRUST UNDER**  
5 **THE SSI PROGRAM.**

6 (a) TREATMENT AS RESOURCE.—Section 1613 of the  
7 Social Security Act (42 U.S.C. 1382b) is amended by add-  
8 ing at the end the following:

9 "Trusts

10 "(e)(1) In determining the resources of an individual,  
11 paragraph (3) shall apply to a trust (other than a trust  
12 described in paragraph (5)) established by the individual.

13 "(2)(A) For purposes of this subsection, an individual  
14 shall be considered to have established a trust if any assets  
15 of the individual (or of the individual's spouse) are trans-  
16 ferred to the trust.

17 "(B) In the case of an irrevocable trust to which are  
18 transferred the assets of an individual (or of the individ-  
19 ual's spouse) and the assets of any other person, this sub-  
20 section shall apply to the portion of the trust attributable  
21 to the assets of the individual (or of the individual's  
22 spouse).

23 "(C) This subsection shall apply to a trust without  
24 regard to—

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1           “(i) the purposes for which the trust is estab-  
2           lished;

3           “(ii) whether the trustees have or exercise any  
4           discretion under the trust;

5           “(iii) any restrictions on when or whether dis-  
6           tributions may be made from the trust; or

7           “(iv) any restrictions on the use of distributions  
8           from the trust.

9           “(3)(A) In the case of a revocable trust established  
10          by an individual, the corpus of the trust shall be consid-  
11          ered a resource available to the individual.

12          “(B) In the case of an irrevocable trust established  
13          by an individual, if there are any circumstances under  
14          which payment from the trust could be made to or for  
15          the benefit of the individual or the individual's spouse, the  
16          portion of the corpus from which payment to or for the  
17          benefit of the individual or the individual's spouse could  
18          be made shall be considered a resource available to the  
19          individual.

20          “(4) The Commissioner of Social Security may waive  
21          the application of this subsection with respect to an indi-  
22          vidual if the Commissioner determines that such applica-  
23          tion would work an undue hardship on the individual.

24          “(5) This subsection shall not apply to a trust de-  
25          scribed in subparagraph (A) or (C) of section 1917(d)(4).

1 (6) For purposes of this subsection—

2 (A) the term 'trust' includes any legal instru-  
3 ment or device that is similar to a trust;

4 (B) the term 'corpus' means, with respect to  
5 a trust, all property and other interests held by the  
6 trust, including accumulated earnings and any other  
7 addition to the trust after its establishment (except  
8 that such term does not include any such earnings  
9 or addition in the month in which the earnings or  
10 addition is credited or otherwise transferred to the  
11 trust); and

12 (C) the term 'asset' includes any income or re-  
13 source of the individual or of the individual's spouse,  
14 including—

15 (i) any income excluded by section  
16 1612(b);

17 (ii) any resource otherwise excluded by  
18 this section; and

19 (iii) any other payment or property to  
20 which the individual or the individual's spouse  
21 is entitled but does not receive or have access  
22 to because of action by—

23 (I) the individual or spouse;

24 (II) a person or entity (including a  
25 court) with legal authority to act in place

1 of, or on behalf of, the individual or  
2 spouse; or

3 "(III) a person or entity (including a  
4 court) acting at the direction of, or on the  
5 request of, the individual or spouse."

6 (b) TREATMENT AS INCOME.—Section 1612(a)(2) of  
7 such Act (42 U.S.C. 1382a(a)(2)) is amended—

8 (1) by striking "and" at the end of subpara-  
9 graph (E);

10 (2) by striking the period at the end of sub-  
11 paragraph (F) and inserting "; and"; and

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

13 "(G) any earnings of, and additions to, the cor-  
14 pus of a trust established by an individual (within  
15 the meaning of section 1613(e)), of which the indi-  
16 vidual is a beneficiary, to which section 1613(e) ap-  
17 plies, and, in the case of an irrevocable trust, with  
18 respect to which circumstances exist under which a  
19 payment from the earnings or additions could be  
20 made to or for the benefit of the individual."

21 (c) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect on <sup>July</sup>~~January~~ 1, 1999, and shall  
23 apply to trusts established on or after such date. ✓

1 **SEC. 10. DISPOSAL OF RESOURCES FOR LESS THAN FAIR**  
2 **MARKET VALUE UNDER THE SSI PROGRAM.**

3 (a) IN GENERAL.—Section 1613(c) of the Social Se-  
4 curity Act (42 U.S.C. 1382b(c)) is amended—

5 (1) in the caption, by striking "Notification of  
6 Medicaid Policy Restricting Eligibility of Institu-  
7 tionalized Individuals for Benefits Based on";

8 (2) in paragraph (1)—

9 (A) in subparagraph (A)—

10 (i) by inserting "paragraph (1) and"  
11 after "provisions of";

12 (ii) by striking "title XIX" the first  
13 place it appears and inserting "this title  
14 and title XIX, respectively,";

15 (iii) by striking "subparagraph (B)"  
16 and inserting "clause (ii)";

17 (iv) by striking "paragraph (2)" and  
18 inserting "subparagraph (B)";

19 (B) in subparagraph (B)—

20 (i) by striking "by the State agency";  
21 and

22 (ii) by striking "section 1917(c)" and  
23 all that follows and inserting "paragraph  
24 (1) or section 1917(c)."; and

25 (C) by redesignating subparagraphs (A)  
26 and (B) as clauses (i) and (ii), respectively;

1 (3) in paragraph (2)—

2 (A) by striking "(2)" and inserting "(B)";

3 and

4 (B) by striking "paragraph (1)(B)" and

5 inserting "subparagraph (A)(ii)";

6 (4) by striking "(c)(1)" and inserting "(2)(A)";

7 and

8 (5) by inserting before paragraph (2) (as redes-

9 ignated by paragraph (4) of this subsection) the fol-

10 lowing:

11 "(c)(1)(A)(i) If an individual or the spouse of an indi-

12 vidual disposes of resources for less than fair market value

13 on or after the look-back date described in clause (ii)(I),

14 the individual is ineligible for benefits under this title for

15 months during the period beginning on the date described

16 in clause (iii) and equal to the number of months cal-

17 culated as provided in clause (iv).

18 "(ii)(I) The look-back date described in this sub-

19 clause is a date that is 36 months before the date de-

20 scribed in subclause (II).

21 "(II) The date described in this subclause is the date

22 on which the individual applies for benefits under this title

23 or, if later, the date on which the individual (or the spouse

24 of the individual) disposes of resources for less than fair

25 market value.

1       “(iii) The date described in this clause is the first  
2 day of the first month that follows the month in which  
3 resources were disposed of for less than fair market value  
4 and that does not occur in any other period of ineligibility  
5 under this paragraph.

6       “(iv) The number of months calculated under this  
7 clause shall be equal to—

8               “(I) the total, cumulative uncompensated value  
9 of all resources so disposed of by the individual (or  
10 the spouse of the individual) on or after the look-  
11 back date described in clause (ii)(I); divided by

12               “(II) the amount of the maximum monthly ben-  
13 efit payable under section 1611(b) for the month in  
14 which occurs the date described in clause (ii)(II),  
15 rounded up, in the case of any fraction, to the next whole  
16 number.

17       “(B) An individual shall not be ineligible for benefits  
18 under this title by reason of the application of this sub-  
19 section to a disposal of resources by an individual or the  
20 spouse of an individual if the Commissioner of Social Se-  
21 curity determines that—

22               “(i) the resources were transferred exclusively  
23 for a purpose other than to qualify for benefits  
24 under this title; or

1 (ii) the denial of eligibility would work an  
2 undue hardship on the individual.

3 (C) For purposes of this paragraph, in the case of  
4 a resource held by an individual and another person in  
5 a joint tenancy, tenancy in common, or similar arrange-  
6 ment, the resource (or the affected portion of the resource)  
7 shall be considered to be disposed of by the individual  
8 when any action is taken, by the individual or any other  
9 person, that reduces or eliminates the individual's owner-  
10 ship or control of the resource.

11 (D)(i) Notwithstanding subparagraph (A), this sub-  
12 section shall not apply to a transfer of a resource to a  
13 trust if the portion of the trust attributable to the resource  
14 is considered a resource available to the individual pursu-  
15 ant to subsection (e)(3) (or would be so considered but  
16 for the application of subsection (e)(4)).

17 (ii) In the case of a trust established by an individ-  
18 ual or an individual's spouse (within the meaning of sub-  
19 section (e)), if from such portion of the trust, if any, that  
20 is considered a resource available to the individual pursu-  
21 ant to subsection (e)(3) (or would be so considered but  
22 for the application of subsection (e)(4)) or the residue of  
23 the portion on the termination of the trust—

24 (I) there is made a payment other than to or  
25 for the benefit of the individual; or

1           “(II) no payment could under any circumstance  
2       be made to the individual,  
3 then, for purposes of this subsection, the payment de-  
4 scribed in clause (I) or the foreclosure of payment de-  
5 scribed in clause (II) shall be considered a transfer of re-  
6 sources by the individual or the individual's spouse as of  
7 the date of the payment or foreclosure, as the case may  
8 be.

9           “(E) In the case of a transfer by the spouse of an  
10 individual that results in a period of ineligibility for the  
11 individual under this subsection, the Commissioner shall  
12 apportion the period (or any portion of the period) among  
13 the individual and the individual's spouse if the spouse be-  
14 comes eligible for benefits under this title.

15           “(F) This subsection shall not apply to a disposal of  
16 resources described in subparagraph (A)(ii), (B)(iii), or  
17 (B)(iv) of section 1917(c)(2) by an individual or the  
18 spouse of an individual.

19           “(G) For purposes of this paragraph—

20           “(i) the term ‘benefits under this title’ includes  
21 payments of the type described in section 1616(a) of  
22 this Act and of the type described in section 212(b)  
23 of Public Law 93-66; and

24           “(ii) the term ‘trust’ has the meaning given  
25 such term in subsection (e)(5)(A).”

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall be effective with respect to transfers  
3 made on or after <sup>one year after</sup> the date of enactment of this Act. ✓

~~4 SEC. 11. PROOF OF RESIDENCY REQUIRED FOR SSI BENE-  
5 FICIARIES USING POST OFFICE BOXES.~~

~~6 (a) IN GENERAL.—Section 1631(a)(2)(A)(i) of the  
7 Social Security Act (42 U.S.C. 1383(a)(2)(A)(i)) is  
8 amended by adding at the end the following: "The Com-  
9 missioner of Social Security shall require any individual  
10 or eligible spouse who uses a post office box as an address  
11 for receiving benefits under this title to provide proof of  
12 residency on an annual basis as a condition for continued  
13 eligibility for such benefits."~~

~~14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) shall apply to benefits for months beginning  
16 1 year or more after the date of the enactment of this  
17 Act.~~

~~18 (c) REGULATIONS.—Within 6 months after the date  
19 of the enactment of this Act, the Commissioner of Social  
20 Security shall develop regulations that prescribe proce-  
21 dures for determining the place of residence of individuals  
22 who are eligible for supplemental security income benefits  
23 under title XVI of the Social Security Act but who use  
24 a post office box as an address for receiving such benefits.~~