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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001. fax	Dennis Burke to Jacob Lew re: Work Incentives Improvement Act of 1999 (4 pages)	02/09/99	P5
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COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Cynthia Rice (Subject Files)
 OA/Box Number: 15431

FOLDER TITLE:

Disability-Work Incentives Improvement Act-T.A. to Hill-Part I

rx55

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet

URGENT



FROM: Melinda Haskins

395-3923

DATE: 2/17/99

TIME: NOON

Pages sent (including transmittal sheet): 3

COMMENTS:

*NCD comments on labor substitute
to Sec 221 of S. 331.*

TO: *Jeanne Lambrew
Cynthia Lee
Jonathan Jay
Eve Sued*

*cc: L. Matlack J. Cianci
J. Smalley C. Kottl
J. Forbes*



NATIONAL COUNCIL ON DISABILITY

An independent federal agency working with the President and Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.

MEMORANDUM

TO: Melinda D. Haskins, OMB

FROM: Andrew J. Inparato, NCD ~~FB~~

RE: LABOR Amendments on S331 Work Incentives Improvements Act of 1999

DATE: February 17, 1999

Thank you for the opportunity to comment on DOL's proposed amendments to S331 and thank you for agreeing to an extension of the deadline for comments until this morning.

As an agency that has been recommending changes to federal policy and programs to better promote work, NCD is pleased that the Administration is supporting S331 and focusing significant attention on barriers to employment for people with disabilities. The draft proposal from the Department of Labor is an example of welcome leadership from DOL to address systems change at the State level that will orient state policy and programs to collaborate in a way that facilitates employment and independence for adults with disabilities.

NCD is concerned, however, that the systems change component and the introduction of DOL as the administering agency for the counseling and outreach components of S331 has the potential to complicate S331's chances for passage in this Congress by introducing a new Committee of jurisdiction in the House, the Committee on Education and the Workforce.

Also, we believe that it is important to recognize that the counseling and outreach component of S331 was proposed and drafted by disability community representatives. This is a vital and widely-supported element of the bill. NCD strongly supports it. Accordingly, to the extent that the Administration is seeking to change the home for this program within the Administration, we believe that it is important to obtain input from the disability community before moving forward with this proposal on the Hill. We have heard concerns from some community representatives about whether this change will lessen SSA's ownership of this new program and will undermine community efforts to hold SSA accountable for administering the program properly. Also, to the extent that the one stops are the field structure for this new

program as opposed to social security district offices, will the intended beneficiaries of this new program, SSI and SSDI recipients, be as likely to participate in the new program if it is not housed in the agency they are already interacting with for their benefits? On the other hand, this proposal is an opportunity to build new leadership and expertise at the one stops, which will not be burdened with the baggage of SSA's mixed reputation in the disability community. Moreover, to the extent that DOL is spearheading employment policy across the board, the DOL proposal is a welcome effort to mainstream disability employment policy with other efforts.

In summary, NCD encourages OMB to slow this process down and obtain more community input before taking this package to the Hill. S331 has a lot of momentum thanks to the leadership of the President, the hard work of the disability community, and the hard work of Congressional members and staff. To the extent that these proposals have not been fully vetted with the community, they run the risk of undermining the bill's chances of passage in this Congress.

OFFICE OF MANAGEMENT AND BUDGET

Legislative Reference Division
Labor-Welfare-Personnel Branch

Telecopier Transmittal Sheet



URGENT

FROM: Melinda Haskins

395-3923

DATE: 2/14/99

TIME: 4:20 p.m.

Pages sent (including transmittal sheet): ~~18~~ 19

COMMENTS:

Attached are the comments on the DOL draft language to replace Section 221 of S.331. Do we need to meet to discuss?

TO: Jeanne Lambrew E. Gould
Cynthia Rice
Jonathan Young

cc: Larry Matlack C. Kitti J. Farkas
Jack Smalligan J. Cianci D. Newe

SSA

LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 2/16/99 (Date)
Judy Chesser (Name)
Social Security (Agency)
358-6030 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages _____
- Other: Comments Attached
- FAX RETURN of _____ pages, attached to this response sheet

SSA

2/15/99

SSA's comments on the proposed Department of Labor replacement to Section 221 of S. 331, the "Work Incentives Improvement Act," as introduced.

SSA continues to support the BRIDGE program as proposed in the President's budget. If there is a policy objective to break out work incentive counseling grants (as described in the DOL proposal) that would largely benefit SSA beneficiaries, SSA believes it should have a role in administering such a grant program.

Informal Education



Randy Hansen@ed.gov
02/16/99 02:56:00 PM

Record Type: Record

To: Melinda D. Haskins@eop
cc:
Subject: DOL proposed amendment to S. 331

Melinda: While we have not had adequate time for a thorough review of the DOL proposal, we do have the following first impression comments:

1. A strong evaluation component needs to be added to the proposal, which is pretty standard for new programs (we're not commenting, at this time, upon the location of the programs).
2. We would like to see VR agencies as mandatory partners in the consortia, in both (b)(5)(A) and (c)(3)(A) for the proposed programs.
3. Assuming roughly 300 one stops, the amount of money authorized would compute to less than \$100,000 per center for the counseling and outreach component. We question if this is enough money to do all of the things discussed, especially for a broad population expanded beyond SSA beneficiaries.
4. We note that since VR employees are expert on services to persons with disabilities their training needs, under the proposal's training requirements, are likely to be less than other personnel and therefore won't need uniform training.

*evaluation on one allowable uses
→ rest in RFP*

Deputes said no

True but that's our budget



Jonathan M. Young
02/17/99 12:19:13 PM

OK

Record Type: Record

To: Joanne Cianci/OMB/EOP
cc: Cynthia A. Rice/OPD/EOP, Jeanne Lambrew/OPD/EOP.
Subject: 46%

On this issue of Section 221 work incentives planners and systems change, which you rightly point out, I propose a modified solution.

The problem Becky is trying to address is the concern on the part of people in the disability community and presumably in Congress that they don't want to see "their \$23 million" (as they would see it) go to general support of one-stop shops. It would be problematic to have language only of "no more than 46%" because that could mean, for example, \$5 million to work incentives planners and \$45 mil to general consortia. Because the reverse is also true (much more money going to work incentives), I propose (in appropriate language):

"at least 46% of funds authorized, not to exceed a total of \$23 million."

That would address the community's concern of proportionality but at the same time attend to your concern about matching the original language of not exceeding \$23 million.

OMB - Labor Branch

Carole Kitti

02/16/99 01:33:23 PM

Record Type: Record

To: Melinda D. Haskins/OMB/EOP@EOP

cc: Larry R. Matlack/OMB/EOP@EOP, Joanne Cianci/OMB/EOP@EOP, Jack A. Smalligan/OMB/EOP@EOP

Subject: Re: LABOR Amendments to S331 -- Comments Due by 3 PM, 2/16/99

(1) I agree with Joanne that DOL's language earmarking funds for counseling should be stated as "not more than" 46 percent of the funds appropriated (with \$50 million authorized). This is consistent with the Jeffords-Kennedy language that these grants "may not exceed" \$23 million. DOL needs to change the last paragraph of the section-by-section and in the last paragraph of the draft bill on page 5, (g)(2), to reflect the new language.

(2) After working with DOL on the legislative language for their grant program, we believe that the grant program is now consistent with the President's Budget. While we had not initially planned an explicit earmark for the counseling activities, counseling services were an expected activity under the Work Incentive Assistance Grants program. DOL now has a single program to carry out counseling/outreach and systems change; there are explicit links to the one-stop career center systems with the counseling/outreach grants as well as the systems change grants; and the Secretary of Labor may provide assistance in a single grant to carry out both types of activities.

(3) The feature of DOL's replacement language for Section 221 that was not part of the DOL proposal in the President's Budget is the Work Incentives Specialists that SSA must establish. The \$50 million authorized for DOL's grant program does not cover these SSA costs. We defer to the IM Branch on whether this section of DOL's language is appropriate and consistent with the Budget. (Based on the discussions last Thursday, it appeared that SSA wants this section in the replacement language.)

What's the answer?

OMB - IM
Branch

an agency
comments

Joanne Cianci

02/14/99 11:29:58 AM

Record Type: Record

To: Melinda D. Haskins/OMB/EOP@EOP

cc: Jack A. Smalligan/OMB/EOP@EOP, Carole Kitti/OMB/EOP@EOP

Subject: Comments on Agency Comments

Here is my response to agency comments on S331. The two big issues that I disagree with the agencies are:

(1) Authorizing language for funding the administration of SSA portions should not be made mandatory, as SSA is requesting; and,

(2) DOL's new language provides more funding for benefit planning grants than J-K. The language should read "no more than 46 percent."

I will be back in the office on Wednesday morning.



s331comments.w

HHS

LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: **Madison D. Haskins** Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 2/16/99 (Date)
Thayer Nelson (Name)
DHHS (Agency)
202-690-7773 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment

See proposed edits on pages

Attached - please let us know if there are any questions

Other: _____

FAX RETURN of 4 pages, attached to this response sheet

concerning (or disagreements with) the proposed edits

HMS

State mental health agencies, State mental retardation agencies, State transportation agencies, local or regional transit authorities, metropolitan planning organizations, local public housing authorities, the State agency administering the State program funded under part A of title IV of the Social Security Act, school-to-work entities, education entities providing transitional services (including State educational agencies, local educational agencies, and community colleges), labor organizations, and local development agencies.

(B) ADDITIONAL REQUIREMENTS.

(i) To the extent practicable, partnerships or consortia described in subparagraph (A) shall be formed by organizations and other entities that are locally or regionally based.

(ii) In order to ensure maximum coordination with the one-stop career center systems, the appropriate State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 shall be members of each partnership or consortium described in subparagraph (A).

(iii) Preference shall be given to applications for grants, cooperative agreements, or contracts, based on the extent to which non-Federal sources will be used to contribute amounts toward matching the amounts available from Federal funds.

(iv) Preference shall be given to applications for grants, cooperative agreements, or contracts, based on the number of entities included in the consortium or partnership for which assistance under this subsection is requested.

(v) Activities assisted under this subsection shall build upon and supplement on-going activities and shall not duplicate or supplant current activities of the one-stop career center systems.

(4) ALLOWABLE ACTIVITIES.- Funds made available from appropriations for carrying out this subsection may be used to provide assistance pursuant to grants, cooperative agreements, or contracts with eligible entities in each State for-

(A) the development and establishment of partnerships utilizing existing local, State, and Federal resources for the purpose of achieving the coordinated provision of integrated income assistance, health and other benefits, job training and placement, and other employment-related services for individuals with disabilities;

(B) making arrangements to link such services with local one-stop career center systems in a manner that comprehensively supports coordinated delivery of employment-related services to individuals with disabilities;

(C) the provision of training and technical assistance to partnership and consortium partners under this subsection and to all components of the Statewide workforce investment system under the Workforce Investment Act of 1998, in order-

(i) to increase awareness regarding the availability of and any eligibility requirements for employment-related benefits, services, and training for individuals with disabilities; and

(ii) to promote equal opportunity for the effective participation of individuals with disabilities in workforce investment activities in the State through improved understanding and knowledge of program accessibility needs and requirements;

(D) the development and implementation of procedures designed to enhance the provision of services for individuals with disabilities through such means as common intake, resource information and assistance (including assistance in resume preparation and career development, and information on employment-related services, programs,

I would delete this provision and refer it to the Secretary's discretion and/or to be dealt with in the RFP. Working goal that avoid

superficial collaborations, in papers on paper only.

Writing it with State ties the hands of grant reviewers into are in the best position to assess the effectiveness of the coalition partners.

OR, could change to preference may be given...

No - agreed to independent mty

AMS

Comments from Administration on Developmental Disabilities

On pages 3-4 (subsection (c)(3)(A)), a reference to State developmental disabilities agencies should be added after State mental retardation agencies.

OK

HMS

Comments from ASMP

On page 2, (page 6 of the fax), under (4) Coordination with other programs, Need to specifically reference DHHS as one of the agencies that DOL needs to coordinate with. This is particularly important since State Medicaid agencies are one of the agencies eligible for the grants.

OK

On page 3, (page 7 of the fax) under (2) consultation with Federal Partners, need to change the name of DHHS from Health and Human Resources to Health and Human Services.

yes

rice

LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

RESPONSE TO
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Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 2/16/99 (Date)
Cynthia Rice (Name)
DPC (Agency)
6-28476 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages attached
- Other: _____
- FAX RETURN of 3 pages, attached to this response sheet

ATTACHMENTS:


WIAG.La


WIAG2.LA

line

DRAFT 2/12/99

**STATEMENT IN EXPLANATION AND SECTION-BY-SECTION ANALYSIS OF
WORK INCENTIVES ASSISTANCE PROGRAM**

This section would establish a \$50 million Work Incentives Assistance Program that would ^{help} ~~assist~~ individuals with disabilities return to the workforce by improving access to and the coordination of information, benefits and services. The program builds upon and expands the outreach grant program currently proposed in S.331 and incorporates recommendations of the President's Task Force on the Employment of Adults with Disabilities.

The program would have two primary components: (1) counseling and outreach; and (2) systems change. As identified in subsection (a), the first component includes funds to provide community-based planning, counseling and outreach activities to disseminate information on Federal and State work incentive programs and related services to people with disabilities. The second component includes the awarding of funds to create partnerships and consortia that would assist in better integrating and coordinating the provision of employment and support services to individuals with disabilities through the one-stop career center systems being established under the Workforce Investment Act of 1998 (WIA).

Subsection (b) elaborates on the counseling and outreach component. The Secretary of Labor is to award grants or contracts to public or private agencies and organizations and State agencies to select individuals who will disseminate information explaining Federal and State work incentive programs and provide relevant benefits planning to help disabled individuals return to work. This assistance is also to include assessing the adequacy of health benefits offered by an employer, the availability of other health coverage, and the availability of protection and advocacy services. These new and expanded services would be linked to one-stop career centers to help ensure they are widely available to individuals with disabilities.

The Secretary of Labor is also to work with the Commissioner of the Social Security Administration, who is to establish a corps of trained work incentives specialists within the Social Security Administration to disseminate information on disability work incentives under the Social Security Act. In addition, the Secretary is to provide technical assistance and training to grantees. The grantees, in turn, are to work in cooperation with Federal, State and local agencies, private nonprofit organizations that serve the disabled, vocational rehabilitation organizations, and one-stop career centers. The entities eligible to receive outreach funds include Centers for Independent Living, protection and advocacy organizations, client assistance programs, and State Developmental Disabilities Councils.

Subsection (c) describes the "system change" component that is to enhance the provision of services to individuals with disabilities through the one-stop career centers. These one-stop centers are to be established in each local area under the WIA and are to provide universal access to core employment services, including job-related information and placement assistance. This component is designed to assist in ensuring that such universal access to the one-stop system

Nice

DOL DRAFT 2/12/99

[Since we oppose the inclusion of the pointed shadow we reference it here?]

SEC. WORK INCENTIVES ASSISTANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.-- The Secretary of Labor, ~~in consultation with the Work Incentives Advisory Panel~~ established under this Act, shall establish a work incentives assistance program, which shall be designed to--

- (1) provide community-based work incentives planning, assistance, and outreach for the purpose of disseminating to individuals with disabilities accurate information on work incentives programs and issues related to such programs; and
- (2) foster the creation and development of partnerships or consortia of public and private nonprofit organizations (including organizations of individuals with disabilities) for the purpose of improving training, employment, return-to-work, job retention, and career advancement for persons with disabilities, by coordinating and linking the delivery of such services with the one-stop career center systems established under title I of the Workforce Investment Act of 1998.

(b) WORK INCENTIVES COUNSELING AND OUTREACH.--

(1) AUTHORIZED ACTIVITIES.-- The Secretary of Labor shall provide assistance under this subsection through grants, cooperative agreements, or contracts with entities described in paragraph

(4)--

(A) to provide benefits planning and counseling services, including information on the availability of protection and advocacy services, to individuals with disabilities, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (as amended by section 201 of this Act), the program established under section 1619 of the Social Security Act (relating to benefits for medically-impaired individuals who perform substantial gainful activity), and other programs that are designed to encourage individuals with disabilities to work;

(B) to carry out ongoing outreach efforts to individuals with disabilities (and to the families of such individuals) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist individuals with disabilities to work, including--

- (i) preparing and disseminating information explaining such programs;
- (ii) working in cooperation with Federal, State, and local public agencies and private nonprofit organizations that serve individuals with disabilities, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling; and
- (iii) establishing linkages with one-stop career center systems to ensure that services are widely available to individuals with disabilities; and

(C) to carry out--

- (i) training for the individuals providing planning and counseling services and outreach efforts described in subparagraphs (A) and (B); and
- (ii) technical assistance to organizations and entities that are designed to encourage individuals with disabilities to return to work.

Rec

(B) POPULATION OF INDIVIDUALS WITH DISABILITIES TO BE CONSIDERED.--

The Secretary of Labor shall award a grant, cooperative agreement, or contract under this subsection to an entity, taking into account the percentage of the population of the State where the entity is located who are individuals with disabilities.

(c) WORK INCENTIVES GRANTS FOR SYSTEMS CHANGE.--

(1) ASSISTANCE.-- The Secretary of Labor shall provide assistance under this subsection to support the creation and development of partnerships or consortia of public or private nonprofit organizations and entities (including State and local workforce investment boards, and organizations of individuals with disabilities) in order to--

(A) provide incentives for broader systems-building efforts involving coordinated services delivery through, and linkages across, the one-stop career center systems established under title I of the Workforce Investment Act of 1998;

(B) augment the capacity of the one-stop career center systems for the delivery of a full array of effective employment and training services to people with disabilities;

(C) promote coordination among members of such partnerships or consortia, in order to ensure that people with disabilities are better prepared to enter, reenter, and remain in the workforce; and

(D) facilitate coordination between one-stop career center systems and the benefits counselors and the corps of trained work incentives specialists described in subsection (b).

(2) CONSULTATION WITH FEDERAL PARTNERS.-- The Secretary of Labor shall award competitive grants, cooperative agreements, or contracts to eligible entities after consultation with appropriate Federal partners, including the National Council on Disability, the President's Committee on the Employment of People with Disabilities, the Task Force on the Employment of Adults with Disabilities, the Department of Commerce, the Department of Education, the Department of Health and Human Resources, the Department of Veterans Affairs, the Social Security Administration, and the Small Business Administration.

(3) ELIGIBLE ENTITIES.--

(A) IN GENERAL.-- Each eligible entity under this subsection shall be a partnership or consortium comprised of public or private nonprofit entities serving individuals with disabilities, which may include (but are not limited to) State and local workforce investment boards established under title I of the Workforce Investment Act of 1998, State Vocational Rehabilitation Agencies (including State agencies for individuals who are blind), Centers for Independent Living, State medicaid and medical assistance agencies, State Protection and Advocacy Agencies, Client Assistance Programs, State Developmental Disabilities Councils, State mental health agencies, State mental retardation agencies, State transportation agencies, local or regional transit authorities, metropolitan planning organizations, local public housing authorities, the State agency administering the State program funded under part A of title IV of the Social Security Act, school-to-work entities, education entities providing transitional services (including State educational agencies, local educational agencies, and community colleges), labor organizations, and local development agencies.

Services

(B) ADDITIONAL REQUIREMENTS.--

(i) To the extent practicable, partnerships or consortia described in subparagraph (A) shall be formed by organizations and other entities that are locally or regionally based.

(ii) In order to ensure maximum coordination with the one-stop career center systems, the

VA

LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

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- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: February 16, 1999 (Date)
DONALD K. DAVIS (Name)
VA (Agency)
703 273-6419 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages _____
- Other: see attached
- FAX RETURN of _____ pages, attached to this response sheet

VA

Attachment

VA would prefer that section (b)(1)(A) of the draft be modified by inserting "with priority of service to service-connected disabled veterans" after "counseling services,"

No

LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

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MEMORANDUM**

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- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melissa D. Madine Phone: 305-7823 Fax: 305-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 305-7362

FROM: 16 FEB 1999 (Date)
DAVID RUAIT (Name)
ONDCP (Agency)
5-6671 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages 1
- Other: _____

FAX RETURN of _____ pages, attached to this response sheet

ONDCP

COMMENTS RELATED TO LRM# MDH20

Page 2, paragraph b, 3. Add "In addition to their skills in vocational rehabilitation, these work incentive specialists should have expertise in substance abuse systems".

?

Page 2, paragraph b, 4. Add "such as substance abuse" to the end of the last sentence.

Yes

Page 3, paragraph c, 2. Add "ONDCP" to the end of the last sentence.

?

(
but part
of SOP /
→ ODCP not listed

OFFICE OF MANAGEMENT AND BUDGET

*Legislative Reference Division
Labor-Welfare-Personnel Branch*

Telecopier Transmittal Sheet



SPECIAL

FROM: Melinda Haskins

395-3923

DATE: 2/16/99

TIME: 5:45 p.m.

Pages sent (including transmittal sheet): 14

COMMENTS:

Comments received to date in response to
✓ agency comments on S. 331.
(Have not heard from ED or HHS.)

MH

TO: Jeanne Lambrew E. Gould
Cynthia Rice
Jonathan Young

CC: Larry Matlack C. Kitti J. Cianci D. Rome
Jack Smalligan J. Fatas

PLEASE CALL THE PERSON(S) NAMED ABOVE FOR IMMEDIATE PICK-UP.

 Joanne Cianci

02/14/99 11:29:58 AM

Record Type: Record

To: Melinda D. Haskins/OMB/EOP@EOP
cc: Jack A. Smalligan/OMB/EOP@EOP, Carole Kitti/OMB/EOP@EOP
Subject: Comments on Agency Comments

Here is my response to agency comments on S331. The two big issues that I disagree with the agencies are:

- (1) Authorizing language for funding the administration of SSA portions should not be made mandatory, as SSA is requesting; and,
- (2) DOL's new language provides more funding for benefit planning grants than J-K. The language should read "no more than 46 percent."

I will be back in the office on Wednesday morning.



s331comments.w

salb-IM:
Ciucci**Comments on Agency Responses to LRM on S. 331****Social Security Administration**

- Deletion of Sunset Provision. IM agrees with SSA's recommendation to delete the sunset provision, or extend it to a period of at least 10 years.
- Clarification of Outcome Milestone Payments. SSA agreed to this provision as written last year. However, IM agrees that the language should be more specific. SSA should provide edits.
- Return funding of grant programs to previous language funding out of the Trust Fund rather than LAE. IM does not support SSA's edit. The previous draft provided authorizing language for funds from the trust fund for DI or the general fund for SSI. OMB, SSA's Office of the Actuary, and SSA's Budget Office have always scored this as discretionary (i.e., from SSA's Limitation on Administrative Expenses).

With respect to the work incentive grants, the President's budget proposed \$50 million per year in discretionary funds from DOL. Any edits provided to the Hill should be consistent with this policy. SSA should not be effected by this proposal.

- Expedited Eligibility Determination for Former Beneficiaries Substitute Proposal. SSA has not provided language or scoring for their substitute proposal at this time.

Department of Labor (refers to draft circulated on 2/12)

This language still does not reflect the program that was envisioned for the budget, however, it is much closer than prior drafts. The Labor Branch has been working with DOL to craft acceptable language.

An edit that is important to address is in the last provision of the section: (g) Authorization of appropriations. The language currently states "(2) Of the sums appropriated to carry out this section for each fiscal year, not less than 46 percent shall be used for carrying out subsection (b)." DOL wanted this language to preserve the original J-K proposal. However the J-K language states (p81 of S331): "(ii) Total amount for all grants, cooperative agreements, and contracts. -- The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed \$23,000,000."

The DOL draft language should therefore read:

"(2) Of the sums appropriated to carry out this section for each fiscal year, not more ~~less~~ than 46 percent shall be used for carrying out subsection (b)."

OMB, IM:
Circle

Department of Health and Human Services
IM defers to the Health Branch on these comments.

National Council on Disability

- Medicaid "buy-in". NCD recommends increasing authorization from \$150 to \$600 over 5 years. IM defers to the Health Branch on this comment, and notes that this addition would not be consistent with the President's proposed budget.
- \$1 for \$2 Benefit Offset. The language for this provision is identical to previous versions. There does not seem to be a strong argument for the time requirements that NCD is recommending.
- Expedited Eligibility Determination for Former Beneficiaries. NCD recommends a more detailed proposal be developed. SSA has been working on a substitute proposal, but has not completed legislative language.
- Protection and Advocacy Grants. Again the language for this provision is identical to previous versions.
- Marriage Penalty. NCD recommends addressing this issue in Title I. IM defers to the Health Branch on this comment, and notes that this addition would not be consistent with the President's proposed budget.

ODCLCA QUICK FAX**(202)358-6030- Voice/(202 358-6074/6075- Fax)****Date:** 2-15-99**TO:** Melinda Haskins**FROM:** Jim O'Donnell**COVER + 9 pages****COMMENTS:** Re: S. 331
SSA's position on Top-Tier
and comments on agency comments

2/15/99

SSA position on the "top tier" issues for comments on S.331:

o Page 52, lines 7 through 9 -- The sunset provision must be deleted.

o Attached is suggested language for page 45 to clarify SSA's intent on milestone payments only after a person has returned to the workforce.

}
oh
well

o SSA's proposed substitute language for Section 212 will not be ready in time to provide TA before the scheduled mark-up on March 4.

o The Section 221 grant program proposed by DOL -- SSA's comments were sent separately in response to OMB's request for comments by 3:00pm today.

o Page 85, Section 301 -- Rather than the time limited reauthorization of SSA's Title II demonstration authority, we seek a permanent authority such as the authority we currently have for Title XVI. In addition, attached is a proposal we prefer that also expands the demonstration authority to cover the entire Social Security Old-Age, Survivors, and Disability Insurance programs.

X not top tier

}

o Page 91, line 7 -- recommend deletion of the appropriations requirement and that the demonstration called for in this section be paid from The Trust Fund.

SSA's comments on other agency comments from the last review cycle:

o Page 104 -- we concur with the Treasury Department's suggestion and have marked up page 104 (attached) accordingly.

o The Department of Education commented that the Protection and Advocacy section needed to be strengthened by adding language giving them the authority "to pursue legal, administrative, and etc...". However, please note from the attached section of the P&A statute that indicates those agencies already have the authority the Office of Education wants added.

} Really?

o We concur with the Justice Department that the language concerning sexual offenders is problematic, but do not, at this time, have suggested substitute language.

X DOT had substitute language

1 include a State supplementary payment, adminis-
2 tered federally or otherwise.

3 "(1) REGULATIONS.—Not later than 1 year after the
4 date of enactment of this section, the Commissioner shall
5 prescribe such regulations as are necessary to carry out
6 the provisions of this section.

7 [~~"(m) SUNSET OF PROGRAM.—The Program estab-~~
8 ~~lished under this section shall terminate on September 30,~~
9 ~~2004."]~~

10 (b) CONFORMING AMENDMENTS.—

11 (1) AMENDMENTS TO TITLE II.—

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

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

18 (B) Section 222(a) of the Social Security
19 Act (42 U.S.C. 422(a)) is repealed.

20 (C) Section 222(b) of the Social Security
21 Act (42 U.S.C. 422(b)) is repealed.

22 (D) Section 225(b)(1) of the Social Secu-
23 rity Act (42 U.S.C. 425(b)(1)) is amended by
24 striking "a program of vocational rehabilitation
25 services" and inserting "a program consisting

1 more milestones with respect to beneficiaries re-
2 ceiving services from an employment network
3 under the Program that are directed toward the
4 goal of permanent employment. Such milestones
5 shall form a part of a payment structure that
6 provides, in addition to payments made during
7 outcome payment periods, payments ~~made prior~~
8 ~~to outcome payment periods~~ in amounts based
9 on the attainment of such milestones. *In the case of any beneficiary who has returned to the workforce.*

10 "(C) LIMITATION ON TOTAL PAYMENTS TO
11 EMPLOYMENT NETWORK.—The payment sched-
12 ule of the outcome-milestone payment system
13 shall be designed so that the total of the pay-
14 ments to the employment network with respect
15 to each beneficiary is less than, on a net
16 present value basis (using an interest rate de-
17 termined by the Commissioner that appro-
18 priately reflects the cost of funds faced by pro-
19 viders), the total amount to which payments to
20 the employment network with respect to the
21 beneficiary would be limited if the employment
22 network were paid under the outcome payment
23 system.

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

**SOCIAL SECURITY ADMINISTRATION
FISCAL YEAR 2000 LEGISLATIVE PROPOSAL**

Demonstration Project Waiver Authority

Provide Permanent Demonstration Project Waiver Authority under the Social Security Programs

Current Law: The Commissioner's temporary authority to initiate experiments and demonstration projects to test ways in which to encourage Social Security disability beneficiaries to return to work expired on June 9, 1996. For projects initiated on or before that date, the law authorized the Commissioner and the Secretary of Health and Human Services to waive compliance with the benefit requirements of the Social Security and Medicare programs, respectively, insofar as necessary to carry out such projects. This demonstration and waiver authority was applicable only with respect to disability beneficiaries.

The Commissioner has permanent statutory authority to waive any of the requirements, conditions, or limitations of the Supplemental Security Income (SSI) program (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such periods as he finds necessary to carry out experimental, pilot, or demonstration projects which are likely to assist in promoting the objectives or facilitating the administration of the SSI program.

Proposal: Would provide permanent statutory authority for the Commissioner of Social Security to waive any of the provisions, requirements, conditions, or limitations of the Social Security Old-Age, Survivors, and Disability Insurance programs (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such periods as the Commissioner finds necessary to carry out experimental, pilot, or demonstration projects which, in the Commissioner's judgment, are likely to assist in promoting the objectives or in facilitating the administration of the Social Security programs. Also, authorizes the Commissioner to include both applicants for, and beneficiaries of, benefits under the Social Security programs as participants in such projects.

Would direct the Commissioner to carry out under this provision demonstration projects to determine the advantages and disadvantages of different methods that may be used to encourage a disability beneficiary to return to work by reducing the beneficiary's disability benefits on the basis of his/her earnings from work activity.

Would provide that the costs for benefits under, and the administration of, any such project (including the planning for the project and the review and evaluation of the project and its results) shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner.

In addition, would authorize the Commissioner to make grants to, or to enter into contracts or make jointly financed cooperative arrangements with, any public or private agency, organization, or other entity to the extent necessary to carry out such a project.

Would direct the Commissioner to submit periodic reports on the progress of any experiments and demonstration projects carried out under this provision to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. Such reports shall include, when warranted, detailed recommendations for changes in administration or law, or both, that would assist in promoting the objectives or facilitating the administration of the Social Security programs.

Rationale: There is an ongoing need for the Commissioner to have flexibility in conducting experimental, pilot, and demonstration projects and studies designed to promote the objectives and facilitate the administration of the Social Security programs. This proposal would give the Commissioner the same broad demonstration and waiver authority to carry out experimental, pilot, or demonstration projects with respect to the Social Security programs, including the authority to include both applicants and beneficiaries as participants in demonstration projects involving the Social Security programs, as he already has with respect to the SSI program.

Absent this authority, for example, SSA would be able to include both SSI disability applicants and recipients--but not Social Security disability applicants and beneficiaries--in demonstration projects to test proposed changes to the disability programs that require waivers of provisions of the Social Security Act.

In addition, because the Commissioner's waiver authority has been time-limited and has had to be re-authorized every several years since it was first provided in 1980, permanent demonstration waiver authority would eliminate the administrative concern

over lapses in the waiver authority and would allow the Commissioner to use a longer-range view in testing innovative changes that would promote the objectives and facilitate the administration of the Social Security programs.

Effect on Beneficiaries: Impact would vary depending on the types and scope of the projects involved.

Federalism Impact: None.

Cost: (in millions)

<u>Program</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>
Social Security				TO BE PROVIDED	
Medicare				TO BE PROVIDED	
<u>Administrative</u>					
Social Security				TO BE PROVIDED	
Medicare				TO BE PROVIDED	

Effective Date: Upon enactment.

Contact Person: Judy L. Chesser, (202) 358-6030.

1 the Federal Disability Insurance Trust Fund and the Fed-
2 eral Old-Age and Survivors Insurance Trust Fund, as de-
3 termined appropriate by the Commissioner of Social Secu-
4 rity, and from the Federal Hospital Insurance Trust Fund
5 and the Federal Supplementary Medical Insurance Trust
6 Fund, as determined appropriate by the Secretary of
7 Health and Human Services, ~~to the extent provided in ad-~~
8 ~~vanee in appropriation Acts.~~

9 **SEC. 303. SENSE OF CONGRESS REGARDING ADDITIONAL**
10 **DEMONSTRATION PROJECTS.**

11 It is the sense of Congress that the Commissioner
12 of Social Security and the Secretary of Health and Human
13 Services should establish additional demonstration
14 projects to assist individuals with disabilities to engage in
15 work.

16 **SEC. 304. STUDIES AND REPORTS.**

17 (a) STUDY BY GENERAL ACCOUNTING OFFICE OF
18 EXISTING DISABILITY-RELATED EMPLOYMENT INCEN-
19 TIVES.—

20 (1) STUDY.—As soon as practicable after the
21 date of enactment of this Act, the Comptroller Gen-
22 eral of the United States shall undertake a study to
23 assess existing tax credits and other disability-relat-
24 ed employment incentives under the Americans with
25 Disabilities Act of 1990 and other Federal laws. In

1 censed minister of a church, a member of a religious order,
 2 or a Christian Science practitioner, and which is effective
 3 for the taxable year in which this Act is enacted, may be
 4 revoked by filing an application therefore (in such form
 5 and manner, and with such official, as may be prescribed,
 6 *by the Commissioner of the Internal Revenue Service*
 6 in regulations made under chapter 2 of such Code), if such
 7 application is filed no later than the due date of the Fed-
 8 eral income tax return (including any extension thereof)
 9 for the applicant's second taxable year beginning after De-
 10 cember 31, 1999. Any such revocation shall be effective
 11 (for purposes of chapter 2 of the Internal Revenue Code
 12 of 1986 and title II of the Social Security Act), as speci-
 13 fied in the application, either with respect to the appli-
 14 cant's first taxable year beginning after December 31,
 15 1999, or with respect to the applicant's second taxable
 16 year beginning after such date, and for all succeeding tax-
 17 able years; and the applicant for any such revocation may
 18 not thereafter again file application for an exemption
 19 under such section 1402(e)(1). If the application is filed
 20 after the due date of the applicant's Federal income tax
 21 return for a taxable year and is effective with respect to
 22 that taxable year, it shall include or be accompanied by
 23 payment in full of an amount equal to the total of the
 24 taxes that would have been imposed by section 1401 of
 25 the Internal Revenue Code of 1986 with respect to all of

-S 321 IS

§ 121, 77 Stat. 284; Dec. 4, 1967, P. L. 90-170, § 2(a), (b), (d), 81 Stat. 527; Oct. 30, 1970, P. L. 91-517, Title II, § 201(a), (b), 84 Stat. 1325; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 486; Nov. 6, 1978, P. L. 95-602, Title V, § 509, 92 Stat. 3008; § 6032—Act Oct. 31, 1963, P. L. 88-164, Title I, Part B, § 122, as added Oct. 30, 1970, P. L. 91-517, Title II, § 202, 84 Stat. 1326; June 18, 1973, P. L. 93-45, Title III, § 301(a), 87 Stat. 95; Oct. 4, 1975, P. L. 94-103, Title I, Part A, § 101(a), Part B, § 105, 89 Stat. 486, 487; Nov. 6, 1978, P. L. 95-602, Title V, § 509, 92 Stat. 3009; § 6033—Act Oct. 31, 1963, P. L. 88-164, Title I, Part B, § 123 [122], 77 Stat. 284; Oct. 30, 1970, P. L. 91-517, Title II, §§ 202, 203, 84 Stat. 1326; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 487; Nov. 6, 1978, P. L. 95-602, Title V, § 509, 92 Stat. 3010; Aug. 13, 1981, P. L. 97-35, Title IX, Subtitle B, § 911(b), 95 Stat. 563; Feb. 22, 1984, P. L. 98-221, Title III, § 303, 98 Stat. 35) were omitted in the general revision of Title I of Act Oct. 31, 1963 by Act Oct. 19, 1984, P. L. 98-527, § 2, 98 Stat. 2662. Section 6031, which appeared as 42 USCS § 2661, provided for grants to university affiliated facilities; similar provisions now appear as 42 USCS § 6062. Section 6032, related to applications of university affiliated facilities; similar provisions now appear as 42 USCS § 6063. Section 6033, which appeared as 42 USCS § 2662, related to authorization of appropriations; similar provisions now appear as 42 USCS § 6064.

§§ 6041-6043. [Omitted]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

These sections (§ 6041—Act Oct. 31, 1963, P. L. 88-164, Title I, Part B, § 125 [124], 77 Stat. 285; Oct. 30, 1970, P. L. 91-517, Title II, §§ 201(c), 202, 205, 84 Stat. 1326; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 488; § 6042—Act Oct. 31, 1963, P. L. 88-164, Title I, Part B, § 126 [125], 77 Stat. 285; Dec. 4, 1967, P. L. 90-170, § 2(c), 81 Stat. 527; Oct. 30, 1970, P. L. 91-517, Title II, §§ 201(c), 202, 84 Stat. 1326; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 488; § 6043—Act Oct. 31, 1963, P. L. 88-164, Title I, Part B, § 127, as added Oct. 30, 1970, P. L. 91-517, Title II, § 206, 84 Stat. 1326; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 488) were omitted by Act Nov. 6, 1978, P. L. 95-602, Title V, § 509, 92 Stat. 3008. Section 4041, which appeared as 42 USCS § 2664, provided for construction, renovation or modification of buildings; § 4042, which appeared as 42 USCS § 2665, related to grants; and § 4043, which appeared as 42 USCS § 2666, related to authorization of appropriations.

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

CROSS REFERENCES

This subchapter is referred to in 42 USCS §§ 11961, 6006, 6022, 10802.

§ 6041. Purpose

It is the purpose of this part [42 USCS §§ 6041 et seq.] to provide for

allotments to support a Protection and Advocacy system (hereafter referred to in this part [42 USCS §§ 6041 et seq.] as the "system") in each State to protect the legal and human rights of individuals with developmental disabilities in accordance with section 142 [42 USCS § 6042]. (Oct. 31, 1963, P. L. 88-164, Title I, Part C, § 141, as added Oct. 19, 1984, P. L. 98-527, § 2, 98 Stat. 2679; April 6, 1994, P. L. 103-230, Title III, § 302, 108 Stat. 314.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior § 6041 (Act Oct. 31, 1963, P. L. 88-164, Title I, Part D, § 125 [124], 77 Stat. 285; Oct. 30, 1970, P. L. 91-517, Title II, §§ 201(c), 202, 205, 84 Stat. 1326; Oct. 4, 1975, P. L. 94-103, Title I, Part B, § 105, 89 Stat. 488), which appeared as 42 USCS § 2664, was omitted by Act Nov. 6, 1978, P. L. 95-602, Title V, § 509, 92 Stat. 3008. It provided for construction, renovation, or modification of buildings.

Another prior § 141 of Act Oct. 31, 1963, P. L. 88-164, Title I, Part D, as added Dec. 4, 1967, P. L. 90-170, § 4, 81 Stat. 528, 529, which appeared as 42 USCS § 2678, was omitted in the general amendment of Part D of Title I of Act Oct. 31, 1963 by Act Oct. 4, 1975, P. L. 94-103, Title I, Part D, § 120, 89 Stat. 495. It related to authorization, duration, amount and limitation of grants for professional and technical personnel and determination of grants by the Secretary.

Amendments:

1994, Act April 6, 1994, in the section heading, made a technical change; and, in the text, substituted "Protection and Advocacy system (hereafter referred to in this part as the 'system')" for "system" and substituted "individuals" for "persons".

§ 6042. System required

(a) **System required.** In order for a State to receive an allotment under part B [42 USCS §§ 6021 et seq.]—

(1) the State must have in effect a system to protect and advocate the rights of individuals with developmental disabilities;

(2) such system must—

(A) have the authority to—

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and

(ii) provide information on and referral to programs and service addressing the needs of individuals with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported

Melinda D. Haskins 02/12/99 05:09:35 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: James J. Jukes/OMB/EOP, Janet R. Forsgren/OMB/EOP, Robert J. Pellicci/OMB/EOP

Subject: LABOR Amendments to S331 -- Comments Due by 3 PM, 2/16/99

Attached below is the Department of Labor's proposed substitute (legislative language and section-by-section analysis) to Section 221 of S. 331, the "Work Incentives Improvement Act of 1999". Please provide me with comments no later than 3 p.m., Tuesday, February 16th.

YOU WILL NOT RECEIVE A FAXED COPY OF THIS LRM OR THE ATTACHMENTS.

----- Forwarded by Melinda D. Haskins/OMB/EOP on 02/12/99 04:48 PM -----

Total Pages: _____

LRM ID: MDH20

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001**

Friday, February 12, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melinda D. Haskins

PHONE: (202)395-3923 **FAX:** (202)395-6148

SUBJECT: **LABOR Amendment(s) on S331 Work Incentives Improvement Act of 1999**

DEADLINE: **3 P.M. Tuesday, February 16, 1999**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: Attached is the Department of Labor's proposed replacement to Section 221 of S. 331, the "Work Incentives Improvement Act", as introduced (i.e., the Administration's "Work Incentives Assistance Program" substitute).

THIS DEADLINE IS FIRM. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST

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LRM ID: MDH20
Act of 1999

SUBJECT: LABOR Amendment(s) on S331 Work Incentives Improvement

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: 2/16 (Date)
Cynthia Rice (Name)
DPC (Agency)
6-2846 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

Concur

No Objection

No Comment

See proposed edits on pages attached

Other: _____

FAX RETURN of 3 pages, attached to this response sheet

ATTACHMENTS:


WIAG.La


WIAG2.LA

Message Sent To:

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David Rowe/OMB/EOP
Jonathan M. Young/WHO/EOP
Sarah A. Bianchi/OVP @ OVP
Lisa M. Brown/OVP @ OVP

STATEMENT IN EXPLANATION AND SECTION-BY-SECTION ANALYSIS OF
WORK INCENTIVES ASSISTANCE PROGRAM

This section would establish a \$50 million Work Incentives Assistance Program that would ^{help} ~~assist~~ individuals with disabilities return to the workforce by improving access to and the coordination of information, benefits and services. The program builds upon and expands the outreach grant program currently proposed in S.331 and incorporates recommendations of the President's Task Force on the Employment of Adults with Disabilities.

The program would have two primary components: (1) counseling and outreach; and (2) systems change. As identified in subsection (a), the first component includes funds to provide community-based planning, counseling and outreach activities to disseminate information on Federal and State work incentive programs and related services to people with disabilities. The second component includes the awarding of funds to create partnerships and consortia that would assist in better integrating and coordinating the provision of employment and support services to individuals with disabilities through the one-stop career center systems being established under the Workforce Investment Act of 1998 (WIA).

Subsection (b) elaborates on the counseling and outreach component. The Secretary of Labor is to award grants or contracts to public or private agencies and organizations and State agencies to select individuals who will disseminate information explaining Federal and State work incentive programs and provide relevant benefits planning to help disabled individuals return to work. This assistance is also to include assessing the adequacy of health benefits offered by an employer, the availability of other health coverage, and the availability of protection and advocacy services. These new and expanded services would be linked to one-stop career centers to help ensure they are widely available to individuals with disabilities.

The Secretary of Labor is also to work with the Commissioner of the Social Security Administration, who is to establish a corps of trained work incentives specialists within the Social Security Administration to disseminate information on disability work incentives under the Social Security Act. In addition, the Secretary is to provide technical assistance and training to grantees. The grantees, in turn, are to work in cooperation with Federal, State and local agencies, private nonprofit organizations that serve the disabled, vocational rehabilitation organizations, and one-stop career centers. The entities eligible to receive outreach funds include Centers for Independent Living, protection and advocacy organizations, client assistance programs, and State Developmental Disabilities Councils.

Subsection (c) describes the "system change" component that is to enhance the provision of services to individuals with disabilities through the one-stop career centers. These one-stop centers are to be established in each local area under the WIA and are to provide universal access to core employment services, including job-related information and placement assistance. This component is designed to assist in ensuring that such universal access to the one-stop system

includes access to appropriate information and services to individuals with disabilities.

Under this component, the Secretary of Labor is to award funds to partnerships or consortia of entities that must include State and local workforce investment boards that administer the one-stop system under the WIA and may include other public, private nonprofit, State, and local entities serving individuals with disabilities, to facilitate the provision of integrated employment-related services to individuals with disabilities through the one-stop system. Preference in awarding funds is to be provided to applicants that will match Federal funds with nonfederal resources and to those applicants that include the broadest range of entities in the proposed partnership or consortium. In addition, the activities are to supplement and not supplant ongoing one-stop activities. This subsection identifies a number of allowable activities designed to enhance information and services to individuals with disabilities, including linkages with the counseling and outreach activities provided under the other program component.

Subsection (d) provides that the Secretary is to establish requirements for the submission of applications under the grant program.

Subsection (e) clarifies that both components may be carried out through single grants to consortia of entities eligible under subsections (b) and (c).

Subsection (f) contains common definitions.

Finally, subsection (g) authorizes appropriations of \$50 million for the program for each of fiscal years 2000-2004. Not less than 46 percent of the funds appropriated in any fiscal year (e.g. \$23 million in FY 2000 if the full amount is appropriated) is to be used for the counseling and outreach component, with the balance to be used for the systems change component.

[Since we oppose the inclusion of the panel should we reference it here?]

SEC. ____ WORK INCENTIVES ASSISTANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.-- The Secretary of Labor, ~~in consultation with the Work Incentives Advisory Panel~~ established under this Act, shall establish a work incentives assistance program, which shall be designed to--

(1) provide community-based work incentives planning, assistance, and outreach for the purpose of disseminating to individuals with disabilities accurate information on work incentives programs and issues related to such programs; and

(2) foster the creation and development of partnerships or consortia of public and private nonprofit organizations (including organizations of individuals with disabilities) for the purpose of improving training, employment, return-to-work, job retention, and career advancement for persons with disabilities, by coordinating and linking the delivery of such services with the one-stop career center systems established under title I of the Workforce Investment Act of 1998.

(b) WORK INCENTIVES COUNSELING AND OUTREACH.--

(1) AUTHORIZED ACTIVITIES.-- The Secretary of Labor shall provide assistance under this subsection through grants, cooperative agreements, or contracts with entities described in paragraph (4)--

(A) to provide benefits planning and counseling services, including information on the availability of protection and advocacy services, to individuals with disabilities, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (as amended by section 201 of this Act), the program established under section 1619 of the Social Security Act (relating to benefits for medically-impaired individuals who perform substantial gainful activity), and other programs that are designed to encourage individuals with disabilities to work;

(B) to carry out ongoing outreach efforts to individuals with disabilities (and to the families of such individuals) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist individuals with disabilities to work, including--

(i) preparing and disseminating information explaining such programs;

(ii) working in cooperation with Federal, State, and local public agencies and private nonprofit organizations that serve individuals with disabilities, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling; and

(iii) establishing linkages with one-stop career center systems to ensure that services are widely available to individuals with disabilities; and

(C) to carry out--

(i) training for the individuals providing planning and counseling services and outreach efforts described in subparagraphs (A) and (B); and

(ii) technical assistance to organizations and entities that are designed to encourage individuals with disabilities to return to work.

(2) **ADDITIONAL REQUIREMENT.**-- In carrying out paragraph 1(A), a recipient of a grant, cooperative agreement, or contract to provide benefits planning and counseling services shall select individuals who will act as planners and provide information, guidance, and planning to individuals with disabilities on the--

(A) availability and interrelation of any Federal or State work incentives programs, designed to assist individuals with disabilities, in which the individual may be eligible to participate;

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

(C) availability of protection and advocacy services for individuals with disabilities and how to access such services.

(3) **WORK INCENTIVES SPECIALISTS.**-- In coordination with the Secretary of Labor, the Commissioner of Social Security shall establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will specialize in disability work incentives under titles II and XVI of the Social Security Act, for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to--

(A) individuals with disabilities;

(B) benefit applicants under titles II and XVI of the Social Security Act; and

(C) individuals or entities awarded grants, cooperative agreements, or contracts under paragraph (1).

(4) **COORDINATION WITH OTHER PROGRAMS.**-- The responsibilities of the Secretary of Labor under this subsection shall be coordinated with the Social Security Administration, the Rehabilitation Services Administration, and other public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for individuals with disabilities, including the program under section 1619 of the Social Security Act (relating to benefits for medically-impaired individuals who perform substantial gainful activity), the plans for achieving self-support program (PASS), and any other Federal or State work incentives programs that are designed to assist individuals with disabilities, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), one-stop career center systems, and other services.

(5) **ELIGIBLE ENTITIES.**-- The Secretary of Labor may award a grant, cooperative agreement, or contract under this paragraph (1) to any State or any public or private agency or organization including the following:

(A) any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973, protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973, and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the Secretary of Labor determines satisfies the requirements of this subsection; and

(B) any State agency administering the State program funded under part A of title IV of the Social Security Act.

(6) **CONDITIONS.**--

(A) **STATEWIDENESS.**-- The Secretary of Labor shall ensure that the planning, assistance, and information described in paragraph (1) shall be available on a statewide basis.

(B) POPULATION OF INDIVIDUALS WITH DISABILITIES TO BE CONSIDERED.-- The Secretary of Labor shall award a grant, cooperative agreement, or contract under this subsection to an entity, taking into account the percentage of the population of the State where the entity is located who are individuals with disabilities.

(c) WORK INCENTIVES GRANTS FOR SYSTEMS CHANGE.--

(1) ASSISTANCE.-- The Secretary of Labor shall provide assistance under this subsection to support the creation and development of partnerships or consortia of public or private nonprofit organizations and entities (including State and local workforce investment boards, and organizations of individuals with disabilities) in order to--

(A) provide incentives for broader systems-building efforts involving coordinated services delivery through, and linkages across, the one-stop career center systems established under title I of the Workforce Investment Act of 1998;

(B) augment the capacity of the one-stop career center systems for the delivery of a full array of effective employment and training services to people with disabilities;

(C) promote coordination among members of such partnerships or consortia, in order to ensure that people with disabilities are better prepared to enter, reenter, and remain in the workforce; and

(D) facilitate coordination between one-stop career center systems and the benefits counselors and the corps of trained work incentives specialists described in subsection (b).

(2) CONSULTATION WITH FEDERAL PARTNERS.-- The Secretary of Labor shall award competitive grants, cooperative agreements, or contracts to eligible entities after consultation with appropriate Federal partners, including the National Council on Disability, the President's Committee on the Employment of People with Disabilities, the Task Force on the Employment of Adults with Disabilities, the Department of Commerce, the Department of Education, the Department of Health and Human Resources, the Department of Veterans Affairs, the Social Security Administration, and the Small Business Administration.

(3) ELIGIBLE ENTITIES.--

(A) IN GENERAL.-- Each eligible entity under this subsection shall be a partnership or consortium comprised of public or private nonprofit entities serving individuals with disabilities, which may include (but are not limited to) State and local workforce investment boards established under title I of the Workforce Investment Act of 1998, State Vocational Rehabilitation Agencies (including State agencies for individuals who are blind), Centers for Independent Living, State medicaid and medical assistance agencies, State Protection and Advocacy Agencies, Client Assistance Programs, State Developmental Disabilities Councils, State mental health agencies, State mental retardation agencies, State transportation agencies, local or regional transit authorities, metropolitan planning organizations, local public housing authorities, the State agency administering the State program funded under part A of title IV of the Social Security Act, school-to-work entities, education entities providing transitional services (including State educational agencies, local educational agencies, and community colleges), labor organizations, and local development agencies.

(B) ADDITIONAL REQUIREMENTS.--

(i) To the extent practicable, partnerships or consortia described in subparagraph (A) shall be formed by organizations and other entities that are locally or regionally based.

(ii) In order to ensure maximum coordination with the one-stop career center systems, the

appropriate State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 shall be members of each partnership or consortium described in subparagraph (A).

(iii) Preference shall be given to applications for grants, cooperative agreements, or contracts, based on the extent to which non-Federal sources will be used to contribute amounts toward matching the amounts available from Federal funds.

(iv) Preference shall be given to applications for grants, cooperative agreements, or contracts, based on the number of entities included in the consortium or partnership for which assistance under this subsection is requested.

(v) Activities assisted under this subsection shall build upon and supplement on-going activities and shall not duplicate or supplant current activities of the one-stop career center systems.

(4) ALLOWABLE ACTIVITIES.-- Funds made available from appropriations for carrying out this subsection may be used to provide assistance pursuant to grants, cooperative agreements, or contracts with eligible entities in each State for--

(A) the development and establishment of partnerships utilizing existing local, State, and Federal resources for the purpose of achieving the coordinated provision of integrated income assistance, health and other benefits, job training and placement, and other employment-related services for individuals with disabilities;

(B) making arrangements to link such services with local one-stop career center systems in a manner that comprehensively supports coordinated delivery of employment-related services to individuals with disabilities;

(C) the provision of training and technical assistance to partnership and consortium partners under this subsection and to all components of the Statewide workforce investment system under the Workforce Investment Act of 1998, in order--

(i) to increase awareness regarding the availability of and any eligibility requirements for employment-related benefits, services, and training for individuals with disabilities; and

(ii) to promote equal opportunity for the effective participation of individuals with disabilities in workforce investment activities in the State through improved understanding and knowledge of program accessibility, needs and requirements;

(D) the development and implementation of procedures designed to enhance the provision of services for individuals with disabilities through such means as common intake, resource information and assistance (including assistance in resume preparation and career development, and information on employment-related services, programs, and benefits), the development of customer databases and customer service hotlines, and appropriate employment-related counseling and referrals, utilizing single point-of-entry systems involving appropriate electronic and staff assistance;

(E) the modification and enhancement of State and national information systems to link the work of the partnerships with the Statewide workforce investment system and with nationwide systems for the provision of labor market information, employment statistics, and information on education and training opportunities and job vacancies;

(F) the establishment of linkages with other providers of services that individuals with disabilities may need in order to find and keep gainful employment, including such providers as local public agencies, nonprofit service providers, community-based organizations, and educational agencies and institutions;

(G) the establishment of arrangements for the provision of comprehensive pre-service assistance for individuals with disabilities, including (i) coordination with benefits counselors and the corps of work incentives specialists described in subsection (b), and (ii) information on the array of available

services, including transportation assistance and subsidies;

(H) assisting publicly-funded entities in each State that serve specific sub-populations of individuals with disabilities (including individuals who are blind or deaf, or have psychiatric or developmental disabilities, and others) for the purpose of providing training and technical assistance to consortium partners, relating to the specific needs and barriers faced by their clients;

(I) identifying and implementing systems changes that address unique barriers to employment for targeted sub-populations, including (i) linkages and improved access to transportation for those with mobility impairments, (ii) resolution of housing issues facing those experiencing de-institutionalization or loss of public housing support, and (iii) other barriers to entry or re-entry into employment, and job retention and career advancement; and

(J) evaluation of programs or activities funded under this subsection.

(5) ~~The Secretary shall...~~
(d) APPLICATION.-- Eligible entities shall submit applications for grants, cooperative agreements, and contracts to the Secretary of Labor at such time, in such manner, and containing such information and assurances as the Secretary may determine to be necessary to meet the requirements of this section.

(e) SINGLE GRANT.-- The Secretary may provide assistance under this section to any consortium or partnership of entities described in subsections (b)(5) and (c)(3) to carry out the activities described in subsections (b) and (c) through a single grant, cooperative agreement, or contract.

(f) DEFINITIONS.-- As used in this section--

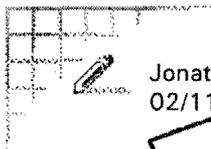
(1) SECRETARY.-- The term "Secretary" means the Secretary of Labor.

(2) ONE-STOP CAREER CENTER SYSTEMS.-- The term "one-stop career center systems" means the one-stop delivery systems established under title I of the Workforce Investment Act of 1998.

(g) AUTHORIZATION OF APPROPRIATIONS.--

(1) There are authorized to be appropriated to carry out this section the sum of \$50,000,000 for each of fiscal years 2000 through 2004.

(2) Of the sums appropriated to carry out this section for each fiscal year, not less than 46 percent shall be used for carrying out subsection (b).



Jonathan M. Young
02/11/99 11:39:00 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: We have OEOP Room 248 for 3 pm, but....

We must vacate before 4 pm.

Message Sent To:

Cynthia A. Rice/OPD/EOP
Jeanne Lambrew/OPD/EOP
Jeffrey A. Farkas/OMB/EOP
Carole Kitti/OMB/EOP
Larry R. Matlack/OMB/EOP
Joanne Cianci/OMB/EOP
J. Eric Gould/OPD/EOP
Lisa M. Brown/OVP @ OVP
Jonathan M. Young/WHO/EOP
Judy.L.Chesser @ SSA.GOV
Susan.M.Daniels @ SSA.GOV
ogle-becky @ dol.gov
bWASHINGTON2 @ hcfa.gov
Bwilliam @ osaspe.dhhs.gov
Curtis_Richards @ ed.gov
Sarah A. Bianchi/OVP @ OVP
rkatz @ osaspe.dhhs.gov
coconnoer2 @ hcfa.gov
reed-gary @ dol.gov
ken.mcgill @ ssa.gov
marie.p.strahan @ ssa.gov
Melinda D. Haskins/OMB/EOP
Jim.o'donnell @ ssa.gov

Melinda D. Haskins 02/10/99 10:23:49 AM

Record Type: Record

To: Jeanne Lambrew/OPD/EOP, Cynthia A. Rice/OPD/EOP, Jonathan M. Young/WHO/EOP
cc: Jeffrey A. Farkas/OMB/EOP, Joanne Cianci/OMB/EOP
Subject: OMB Request for Views on S331 Work Incentives Improvement Act of 1999

Attached are the Health Financing Branch's views on S. 331 as introduced.

----- Forwarded by Melinda D. Haskins/OMB/EOP on 02/10/99 10:21 AM -----

▶ **Jeffrey A. Farkas**
02/08/99 06:45:18 PM

Record Type: Record

To: Melinda D. Haskins/OMB/EOP@EOP
cc: Daniel N. Mendelson/OMB/EOP@EOP, Barry T. Clendenin/OMB/EOP@EOP, Mark E. Miller/OMB/EOP@EOP, Anne E. Tumlinson/OMB/EOP@EOP
bcc:
Subject: Re: OMB Request for Views on S331 Work Incentives Improvement Act of 1999 

HFB has the following comments on Section 104 of this bill (demonstration of coverage of workers with potentially severe disabilities).

The demonstration raises two major concerns for us: (1) there are no provisions to address or safeguard against the supplantation of private insurance (i.e., "crowd-out"); and (2) there are no income limitations on the demonstration, so States could serve a potentially much better-off population (financially) than they serve with the Medicaid options.

One way to address both of these concerns is to limit income and assets under the demonstration to the same levels adopted by States for the Medicaid options. The demonstration population would then be a more financially disadvantaged population (depending on where States set income levels for the Medicaid options) and, as such, would be less likely to raise concerns about crowd-out.

Alternatively, if States are allowed to set income and assets in the demonstration at levels higher than in the Medicaid options, States should be required to address crowd-out as part of the demonstration.

Although we don't have scoring from OACT on these recommendations, we could make other adjustments to the bill (such as the mix of funds between the demo and the section 103 infrastructure grants) if OACT pricing exceeded or fell short of the cost levels in the FY2000 Budget.

We have no comments on the remainder of the bill.

If you have any questions, please let us know. Thanks.

 J. Eric Gould

02/16/99 01:52:10 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc: Jeanne Lambrew/OPD/EOP
Subject: S. 331, Sec 402 / Hendricks Fix

----- Forwarded by J. Eric Gould/OPD/EOP on 02/16/99 02:50 PM -----

 Jose Cerda III

02/16/99 12:40:02 PM

Record Type: Record

To: J. Eric Gould/OPD/EOP
cc: Leanne A. Shimabukuro/OPD/EOP
Subject: Hendricks Fix

Eric:

I agree w/DOJ that we should recommend the "Hendricks Fix" to the Hills folks. We should emphasize, as I understand it, that it strengthens/toughens their own language by: (1) going beyond sex offenders; and (2) making the provision less vulnerable to a court challenge. However, if the folks you're dealing with resist for any reason, I don't think we will want to public oppose their language...just continue to try and fix it along the way if necessary.

Jose'

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. fax	Dennis Burke to Jacob Law re: Work Incentives Improvement Act of 1999 (4 pages)	02/09/99	P5

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Cynthia Rice (Subject Files)
OA/Box Number: 15431

FOLDER TITLE:

Disability-Work Incentives Improvement Act-T.A. to Hill-Part I

rx55

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

2/8/99

SOCIAL SECURITY ADMINISTRATION COMMENTS ON S.331 AND THE SUBSTITUTE DRAFT DEPARTMENT OF LABOR PROPOSAL FOR SECTION 221 OF S.331

We will be available to participate in any technical assistance provided to Senate staff to explain our comments.

TOP TIER ISSUES:

* **o Deletion of the sunset provision**

Page 52, line 7 -- The provision sun-setting the ticket program in 5 years must be deleted. Such a provision will deter both beneficiaries and potential providers from joining the program for fear it will not meet its long term commitments to them. In addition, since program savings will not be realized until later in the program as individuals cease receiving cash benefits, the five year time frame captures mostly start-up costs and negates program savings.

*fall back
10 years?*

* **o Needed Clarification of outcome milestone payments**

Page 44, line 22 and page 64, line 18 -- We would like to amend the legislative language to make it clear that it is the intent that the Commissioner not pay any outcome milestone payments before an individual has returned to work and is earning income.

o Return funding of grant programs to previous language funding out of the Trust Fund rather than the language in S.331 that funds these activities out of our Limitation on Administrative Expense (LAE) fund

*OMB
objects*

Pages 50 (funds for the program manager), and 84 (funds for Protection and Advocacy services) should be changed to fund these programs from the Trust Fund or General Funds, as appropriate, and not through SSA=s LAE appropriation. Programs funded directly from the Trust Funds or the SSI appropriation do not score for purposes of the discretionary caps, while SSA=s LAE appropriation does. SSA=s other programs for grants, contracts and cooperative agreements, as well as the current program for State vocational rehabilitation agencies are funded directly from the Trust Fund or General Funds..

Also, if the DOL substitute for Section 221 is not adopted, the language at page 81 concerning funding for the Work Incentives Planning, Assistance and Outreach also needs to be changed to funding from the Trust Fund.

Finally, the use of LAE funds on page 84 for the Protection and Advocacy services does not work because SSA does not have the authority to use LAE funds for this Title XI authorized program.

PHOTOCOPY
PRESERVATION

o SSA proposed substitute for Section 212 is in development

SSA is preparing a proposal that is more specific than the provision in Section 212 regarding expedited eligibility. When our proposal is completed, we would like the opportunity to offer it as a substitute.

*Better
hurry*

o Section 221 (a)(2)(C) of the draft DOL substitute for Section 221 of S.331 should be deleted

With the proposed transfer of the funding responsibility for Section 221 to the DOL, the provision at (a)(2)(C) no longer makes sense since it does not have any funding source. We would like this section deleted. If the section remains we want the words Awithin the Social Security Administration who will specialize in at the bottom of page 1 restored to the text.

*?
012 DOL
will D*

TECHNICAL ISSUES:

Page 10, line 14 -- Should 1998 be changed to 1999?

Page 72, line 2 -- change Ais to Aare.

o The states' right of first refusal remains in effect in those states where the ticket has not yet been fully implemented. To assure that beneficiaries have access to services as early as possible, we strongly encourage bill language to amend section 222(A) to allow SSA to refer beneficiaries to state VR and other qualified VR providers at the same time in states where the ticket provisions have not been fully implemented.

o Inconsistency in bill language prohibiting CDRs for persons using a ticket. Without some provision for a CDR, SSA does not have a ready mechanism for determining that the beneficiary's benefits should be suspended due to work and earnings. If we cannot suspend benefits then we cannot begin payments to employment providers/networks when they have produced a successful employment outcome.

The bill language must be clarified to allow a CDR for purposes of determining whether benefits should be suspended due to work and earnings with no investigation of medical improvement until the regularly scheduled medical CDR diary matures.

o The bill continues to impose a heavy reporting burden on networks with little apparent benefit to SSA or the beneficiary community. Employment network services are required to submit reports of detailed information regarding clients for whom no outcome or milestone payments will be made as well as for those for whom such payments are anticipated. Additionally, annual financial and performance reporting is required of all employment network services, regardless of their level of participation in or success under this program.

PHOTOCOPY
PRESERVATION

This is unnecessary and burdensome with no apparent benefit.

o The extension of the 505 demonstration authority to 06/10/2001 is insufficient time for SSA to conduct meaningful demonstration projects in support of this legislation and in funding for ongoing efforts to evaluate and improve our programs. We recommend that this authority be extended until such time as a substantial number of SSDI beneficiaries return to meaningful employment and leave the SSDI benefit rolls.

high priority
OMB level
provide comment

LABOR DEPARTMENT

DRAFT 2/9/99

STATEMENT IN EXPLANATION AND SECTION-BY-SECTION ANALYSIS OF WORK INCENTIVES ASSISTANCE PROGRAM

Section 221 would establish a \$50 million Work Incentives Assistance Program that would assist individuals with disabilities return to the workforce by improving access to and the coordination of information, benefits and services. The program builds upon and expands the outreach grant program currently proposed in S.331 and incorporates recommendations of the President's Task Force on the Employment of Adults with Disabilities.

The program would have two primary components: (1) counseling and outreach; and (2) systems change. As identified in section 221(a), the first component includes funds to provide community-based planning, counseling and outreach activities to disseminate information on Federal and State work incentive programs and related services to people with disabilities. The second component includes the awarding of funds to create partnerships and consortia that would assist in better integrating and coordinating the provision of employment and support services to individuals with disabilities through the one-stop career center systems being established under the Workforce Investment Act of 1998 (WIA).

Section 221(b) elaborates on the counseling and outreach component. The Secretary of Labor is to award grants or contracts to public or private agencies and organizations and State agencies to select individuals who will disseminate information explaining Federal and State work incentive programs and provide relevant benefits planning to help disabled individuals return to work. This assistance is also to include assessing the adequacy of health benefits offered by an employer, the availability of other health coverage, and the availability of protection and advocacy services. These new and expanded services would be linked to one-stop career centers to help ensure they are widely available to individuals with disabilities.

The Secretary of Labor is also to work with the Commissioner of the Social Security Administration, who is to establish a corps of trained work incentives specialists to disseminate information on disability work incentives under the Social Security Act. In addition, the Secretary is to provide technical assistance and training to grantees. The grantees, in turn, are to work in cooperation with Federal, State and local agencies, private nonprofit organizations that serve the disabled, vocational rehabilitation organizations, and one-stop career centers. The entities eligible to receive outreach funds include Centers for Independent Living, protection and advocacy organizations, client assistance programs, and State Developmental Disabilities Councils.

Section 221(c) describes the "system change" component that is to enhance the provision of services to individuals with disabilities through the one-stop career centers. These one-stop centers are to be established in each local area under the WIA and are to provide universal access to core employment services, including job-related information and placement assistance. This component is designed to assist in ensuring that such universal access to the one-stop system

includes access to appropriate information and services to individuals with disabilities.

Under this component, the Secretary of Labor is to award funds to partnerships or consortia of entities that must include State and local workforce investment boards that administer the one-stop system under the WIA and may include other public, private nonprofit, State, and local entities serving individuals with disabilities, to facilitate the provision of integrated employment-related services to individuals with disabilities through the one-stop system. Preference in awarding funds is to be provided to applicants that will match Federal funds with nonfederal resources. In addition, the activities are to supplement and not supplant on-going one-stop activities. This subsection identifies a number of allowable activities designed to enhance information and services to individuals with disabilities, including linkages with the counseling and outreach activities provided under the other program component.

Section 221(d) provides that the Secretary is to establish requirements for the submission of applications under the grant program.

Section 221(e) contains common definitions.

Finally, section 221(f) authorizes appropriations of \$50 million for the program for FY 2000, and such sums as may be necessary for FY2001 and 2002. Not less than 46 percent of the funds appropriated in any fiscal year (e.g. \$23 million in FY 2000 if the full amount is appropriated) is to be used for the counseling and outreach component, with the balance to be used for the systems change component.

February 9, 1999 (4:00pm)

DOL STAFF DRAFT

(changes in section 221 of S. 331, the Work Incentives Improvement Act as introduced by Senators Jeffords and Kennedy, are shown with proposed deletions typed in strikeout and bracketed, and proposed insertions shown in bold italics)

Subtitle C – Work Incentives Planning, Assistance, and Outreach

~~[SEC. 221. WORK INCENTIVES OUTREACH PROGRAM.]~~

[Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 201, is amended by adding after section 1148 the following:]

~~[“WORK INCENTIVES OUTREACH PROGRAM]~~

~~[SEC. 1149. (a) ESTABLISHMENT.—]~~

SEC. 221. WORK INCENTIVES ASSISTANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

~~[(1) IN GENERAL.—The Commissioner]~~ *The Secretary of Labor*, in consultation with the Work Incentives Advisory Panel established under section 202 of ~~the Work Incentives Improvement Act of 1999]~~ *this Act*, shall establish a *work incentives assistance program, which shall be designed to—*

(1) ~~establish~~ *provide* community-based work incentives planning ~~and~~, assistance ~~program~~, and outreach for the purpose of disseminating to disabled beneficiaries accurate information on work incentives programs and issues related to such programs; and

(2) *foster the creation and development of partnerships or consortia of public and private nonprofit organizations (including organizations of individuals with disabilities) for the purpose of improving training, employment, return-to-work, job retention, and career advancement for persons with disabilities; by coordinating and linking the delivery of such services with the one-stop career center systems established under title I of the Workforce Investment Act of 1998.*

~~[(2) GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND OUTREACH.—]~~

(b) WORK INCENTIVES OUTREACH.—

~~[Under the program established under this section, the Commissioner shall—]~~

(1) ASSISTANCE.— *The Secretary of Labor shall—*

(A) ~~[(A) establish a competitive program of]~~ *provide assistance under this subsection (through grants, cooperative agreements, or [contracts to provide] contracts) for the provision of benefits planning and [assistance] counselling services*, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (as amended by section 201 of this Act), the program established under section 1619 of the Social Security Act (relating to benefits for medically-impaired individuals who perform

substantial gainful activity), and other programs that are designed to encourage disabled beneficiaries to work;

(B) ~~conduct directly, or~~ *provide assistance under this subsection* (through grants, cooperative agreements, or contracts) *for carrying out* ongoing outreach efforts to disabled beneficiaries (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist disabled beneficiaries to work, including--

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

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

(iii) *linkages with one-stop career center systems to ensure that services are widely available to individuals with disabilities;*

~~(D)~~ (C) *provide assistance under this subsection (through grants, cooperative agreements, or contracts) for carrying out--*

(i) training for ~~the work incentive specialists and~~ the individuals providing planning ~~assistance~~ *and counseling services and outreach efforts* described in ~~subparagraph (E)~~ *subparagraphs (A) and (B); and*

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

~~(E)~~ (D) *work with the Commissioner of Social Security, who shall establish a corps of trained, accessible, and responsive work incentives specialists (within the Social Security Administration who will specialize in) with a special emphasis on* disability work incentives under titles II and XVI *of the Social Security Act*, for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to--

(i) disabled beneficiaries;

(ii) benefit applicants under titles II and XVI *of the Social Security Act*; and

(iii) individuals or entities awarded grants under subparagraphs (A) or (B) ~~and~~.

~~(3)~~ (2) **COORDINATION WITH OTHER PROGRAMS.**-- The responsibilities of the ~~Commissioner established~~ *Secretary of Labor* under this ~~section~~ *subsection* shall be coordinated with *the Social Security Administration, the Rehabilitation Services Administration, and other* public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for disabled beneficiaries, including the program under section 1619 *of the Social Security Act (relating to benefits for medically-impaired individuals who perform substantial gainful activity)*, the plans for achieving self-support program (PASS), and any other Federal or State work incentives programs that are designed to assist disabled beneficiaries, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), *one-stop career center systems*, and other services.

(6) CONDITIONS.--

(1) SELECTION OF ENTITIES.--

(A) APPLICATION.-- An entity shall submit an application for a grant, cooperative agreement, or contract to provide benefits planning and assistance to the Commissioner such

time, in such manner, and containing such information as the Commissioner may determine is necessary to meet the requirements of this section.

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

~~[(C) (3) ELIGIBILITY OF STATES AND PRIVATE ORGANIZATIONS.—~~

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

~~[(ii) AGENCIES AND ENTITIES DESCRIBED.—The agencies and entities described in this clause are] including the following.~~

~~[(1) (A) any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973, protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973, and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the [Commissioner] Secretary of Labor determines satisfies the requirements of this [section] subsection.~~

~~[(II) (B) the State agency administering the State program funded under part A of title IV of the Social Security Act.~~

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

~~[(2) (4) SERVICES PROVIDED.—A recipient of a grant, cooperative agreement, or contract to provide benefits planning and [assistance] counseling services shall select individuals who will act as planners and provide information, guidance, and planning to disabled beneficiaries on the--~~

~~(A) availability and interrelation of any Federal or State work incentives programs designed to assist disabled beneficiaries [that] in which the individual may be eligible to participate [in],~~

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

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

~~[(3) (5) [AMOUNT OF GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—]~~

~~[(A) BASED ON] POPULATION OF DISABLED BENEFICIARIES TO BE CONSIDERED.— [Subject to subparagraph (B), the Commissioner] The Secretary of Labor shall award a grant, cooperative agreement, or contract under this [section] subsection to an entity [based on], taking into account the percentage of the population of the State where the entity is located who are disabled beneficiaries.~~

~~(F) LIMITATIONS.—~~

~~[(i) PER GRANT.—No entity shall receive a grant, cooperative agreement, or contract under this section for a fiscal year that is less than \$50,000 or more than \$100,000.]~~

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

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

~~[(c) DEFINITIONS.—In this section:~~

~~[(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of Social Security.~~

~~[(2) DISABLED BENEFICIARIES.—The term "disabled beneficiaries" has the meaning given that term in section 1148(a)(2).]~~

(c) WORK INCENTIVES GRANTS FOR SYSTEMS CHANGE.—

(1) ASSISTANCE.—*The Secretary of Labor shall provide assistance under this subsection to support the creation and development of partnerships or consortia of public or private nonprofit organizations and entities (including State and local workforce investment boards, and organizations of individuals with disabilities) in order to—*

(A) provide incentives for broader systems-building efforts involving coordinated services delivery through, and linkages across, the one-stop career center systems established under title I of the Workforce Investment Act of 1998;

(B) augment the capacity of the one-stop career center systems for the delivery of a full array of effective employment and training services to people with disabilities;

(C) promote coordination among members of such partnerships or consortia, in order to ensure that people with disabilities are better prepared to enter, reenter, and remain in the workforce; and

(D) facilitate coordination between one-stop career center systems and the benefits counselors and the corps of trained work incentives specialists described in subsection (b).

(2) CONSULTATION WITH FEDERAL PARTNERS.—*The Secretary of Labor shall award competitive grants, cooperative agreements, or contracts to eligible entities after consultation with appropriate Federal partners, including the National Council on Disability, the President's Committee on the Employment of People with Disabilities, the Task Force on the Employment of Adults with Disabilities, the Department of Commerce, the Department of Education, the Department of Health and Human Resources, the Department of Veterans Affairs, the Social Security Administration, and the Small Business Administration.*

(3) ELIGIBLE ENTITIES.—

(A) IN GENERAL.—*Each eligible entity under this subsection shall be a partnership or consortium comprised of public or private nonprofit entities serving individuals with disabilities, which may include (but are not limited to) State and local workforce investment boards established under title I of the Workforce Investment Act of 1998, State Vocational Rehabilitation Agencies (including State agencies for individuals who are blind), Centers for Independent Living, State medicaid and medical assistance agencies, State Protection and Advocacy Agencies, Client Assistance Programs, State Developmental Disabilities Councils,*

State mental health agencies, State mental retardation agencies, State transportation agencies, local or regional transit authorities, metropolitan planning organizations, local public housing authorities, the State agency administering the State program funded under part A of title IV of the Social Security Act, school-to-work entities, education entities providing transitional services (including State educational agencies, local educational agencies, and community colleges), labor organizations, and local development agencies.

(B) ADDITIONAL REQUIREMENTS.--

(i) To the extent practicable, partnerships or consortia described in subparagraph (A) shall be formed by organizations and other entities that are locally or regionally based.

(ii) In order to ensure maximum coordination with the one-stop career center systems, the appropriate State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 shall be members of each partnership or consortium described in subparagraph (A).

(iii) Preference shall be given to grant applications based on the extent to which non-Federal sources will be used to contribute amounts toward matching the amounts available from Federal funds.

(iv) Activities assisted under this subsection shall build upon and supplement on-going activities and shall not duplicate or supplant current activities of the one-stop career center systems.

(4) ALLOWABLE ACTIVITIES.-- *Funds made available from appropriations for carrying out this subsection may be used to provide assistance pursuant to grants or contracts with eligible entities in each State for--*

(A) the development and establishment of partnerships utilizing existing local, State, and Federal resources for the purpose of achieving the coordinated provision of integrated income assistance, health and other benefits, job training and placement, and other employment-related services for adults with disabilities;

(B) making arrangements to link such services with local one-stop career center systems in a manner that comprehensively supports coordinated delivery of employment-related services to adults with disabilities;

(C) the provision of training and technical assistance to partnership and consortium partners under this subsection and to all components of the Statewide workforce investment system under the Workforce Investment Act of 1998, in order--

(i) to increase awareness regarding the availability of and any eligibility requirements for employment-related benefits, services, and training for adults with disabilities; and

(ii) to promote equal opportunity for the effective participation of individuals with disabilities in workforce investment activities in the State through improved understanding and knowledge of program accessibility needs and requirements;

(D) the development and implementation of procedures designed to enhance the provision of services for adults with disabilities through such means as common intake, resource information and assistance (including assistance in resume preparation and career development, and information on employment-related services, programs, and benefits), the development of customer databases and customer service hotlines, and appropriate employment-related counseling and referrals, utilizing single point-of-entry systems involving appropriate electronic and staff assistance;

(E) the modification and enhancement of State and national information systems to link the work of the partnerships with the Statewide workforce investment system and with nationwide

systems for the provision of labor market information, employment statistics, and information on education and training opportunities and job vacancies;

(F) the establishment of linkages with other providers of services that adults with disabilities may need in order to find and keep gainful employment, including such providers as local public agencies, nonprofit service providers, community-based organizations, and educational agencies and institutions;

(G) the establishment of arrangements for the provision of comprehensive pre-service assistance for adults with disabilities, including (i) coordination with benefits counselors and the corps of work incentives specialists described in subsection (b), and (ii) information on the array of available services, including transportation assistance and subsidies;

(H) assisting publicly-funded entities in each State that serve specific sub-populations of adults with disabilities (including individuals who are blind or deaf, or have psychiatric or developmental disabilities, and others) for the purpose of providing training and technical assistance to consortium partners, relating to the specific needs and barriers faced by their clients;

(I) identifying and implementing systems changes that address unique barriers to employment for targeted sub-populations, including (i) linkages and improved access to transportation for those with mobility impairments, (ii) resolution of housing issues facing those experiencing de-institutionalization or loss of public housing support, and (iii) other barriers to entry or re-entry into employment, and job retention and career advancement; and

(J) evaluation of programs or activities funded under this subsection.

(d) APPLICATION.— Eligible entities shall submit applications for grants, cooperative agreements, and contracts to the Secretary of Labor at such time, in such manner, and containing such information and assurances as the Secretary may determine to be necessary to meet the requirements of this section.

(e) DEFINITIONS.— As used in this section—

(1) DISABLED BENEFICIARIES.— The term "disabled beneficiaries" has the meaning given that term in section 1148(k)(2) of the Social Security Act (as amended by section 201 of this Act).

(2) SECRETARY.— The term "Secretary" means the Secretary of Labor.

(3) ONE-STOP CAREER CENTER SYSTEMS.— The term "one-stop career center systems" means the one-stop delivery systems established under title I of the Workforce Investment Act of 1998.

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(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to carry out this section the sum of \$50,000,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.

(2) Of the sums appropriated to carry out this section for each fiscal year, not less than 46 percent shall be used for carrying out subsection (b).

\$23m



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the General Counsel
Legislation Division
Washington, DC 20201

February 9, 1999

NOTE TO: ROBERT J. PELLICCI (OMB)

Re: OMB Request for Views on S. 331-Work Incentive Improvement Act of 1999
(LRM ID: MDH17)

This responds to OMB's request for IHS views on S. 331.

IHS believes that the draft bill should be amended to include the conforming and clarifying changes indicated on the attached markup. Please let me know if you have any questions or comments on the suggested changes.

A handwritten signature in black ink, appearing to read "Thayer Nelson", with a long horizontal flourish extending to the right.

Thayer Nelson
(202) 690-7773

Attachment

II

106TH CONGRESS
1ST SESSION**S. 331**

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 1999

Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. ROTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. GRASSLEY, Mr. LATCH, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAHAM, Mr. KERREY, Mr. ROBB, Mr. ROCKEFELLER, Mr. BINGAMAN, Mrs. BOXER, Mr. CLELAND, Ms. COLLINS, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAMS, Mr. HARKIN, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUE, Mr. JOHNSON, Mr. KERRY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. SARBANES, Ms. SNOWE, Mr. STEVENS, Mr. TORRICELLI, and Mr. WELLS) introduced the following bill, which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 ment, the savings to the Social Security Trust
 2 Funds in cash assistance would total
 3 \$3,500,000,000 over the worklife of the individuals.

4 (b) PURPOSES.—The purposes of this Act are as fol-
 5 lows:

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

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

14 (3) To provide individuals with disabilities the
 15 option of maintaining medicare coverage while work-
 16 ing.

17 (4) To establish a return to work ticket pro-
 18 gram that will allow individuals with disabilities to
 19 seek the services necessary to obtain and retain em-
 20 ployment and reduce their dependency on cash bene-
 21 fit programs.

INSERT

INSERT on page 5, after line 21:

(5) To assist States in developing infrastructures that support working individuals with disabilities; to build the capacity to provide home and community-based services; to reduce inappropriate nursing home placements, and for outreach campaigns to connect individuals with services.

*6-7-00
top tier*

is "working individuals" too narrow?

Jeanne will check

1 **TITLE I—EXPANDED AVAILABIL-**
 2 **ITY OF HEALTH CARE SERV-**
 3 **ICES**

4 **SEC. 101. EXPANDING STATE OPTIONS UNDER MEDICAID**
 5 **FOR WORKERS WITH DISABILITIES.**

6 (a) STATE OPTION TO ELIMINATE INCOME, ASSETS,
 7 AND RESOURCE LIMITATIONS FOR WORKERS WITH DIS-
 8 ABILITIES BUYING INTO MEDICAID.

9 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C.
 10 1396a(a)(10)(A)(ii)) is amended

Section

INSERT

11 → ^A(1) in subclause (XIII), by striking "or" at the
 12 end;

13 → ^B(2) in subclause (XIV), by adding "or" at the
 14 end; and

15 → ^C(3) by adding at the end the following:

16 " (XV) who, but for earnings in
 17 excess of the limit established under
 18 section 1905(q)(2)(B), and subject to
 19 limitations on assets, resources, or un-
 20 earned income that may be set by the
 21 State, would be considered to be re-
 22 ceiving supplemental security income
 23 (subject, notwithstanding section
 24 1916, to payment of premiums or
 25 other cost-sharing charges (set on a

INSERT on page 6, line 9:

(1) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

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sliding scale based on income that the State may determine and that may require an individual with income that exceeds 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved to pay an amount equal to 100 percent of the premium cost for providing medical assistance to the individual), so long as any such premiums or other cost-sharing charges are the same as any premiums or other cost-sharing charges imposed for individuals described in subclause (XVI));”

← **INSERT**

(b) STATE OPTION TO EXPAND OPPORTUNITIES FOR WORKERS WITH DISABILITIES TO BUY INTO MEDIC-AID.—

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

INSERT on page 7, after line 18:

(2) CONFORMING AMENDMENT.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)) is amended, in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XV)," after "1902(a)(10)(A)(ii)(X),".

1 “(A) by reason of medical improvement, cease
 2 to be eligible for benefits under section 223(d) or
 3 1614(a)(3) at the time of a regularly scheduled con-
 4 tinuing disability review but who continue to have a
 5 severe medically determinable impairment; and

6 “(B) are employed.

7 “(2) An individual is considered to be ‘employed’ if
 8 the individual—

9 “(A) is earning at least the applicable minimum
 10 wage requirement under section 6 of the Fair Labor
 11 Standards Act (29 U.S.C. 206) and working at least
 12 40 hours per month; or

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

17 (3) CONFORMING AMENDMENT. Section
 18 1905(a) of the Social Security Act (42 U.S.C.
 19 1396d(a)) is amended in the matter preceding para-
 20 graph (1)

INSERT

21 → (A) in clause (x), by striking “or” at the
 22 end;

23 → (B) in clause (xi), by adding “or” at the
 24 end; and

INSERT on page 9, line 18:

(A) AMENDMENT TO DEFINITION OF "MEDICAL ASSISTANCE".--Section 1905(a) of the Social Security Act (42 U.S.C. 1396j(a)) is amended in the matter preceding paragraph (1)--

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

“(xii) individuals described in subsection (v),”

← **INSERT**

(c) PROHIBITION AGAINST SUPPLANTATION OF STATE FUNDS; MAINTENANCE OF EFFORT REQUIREMENT; CONDITION FOR APPROVAL OF STATE PLAN AMENDMENT.—

(1) NO SUPPLANTATION OF STATE FUNDS.—

Federal funds paid to a State for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) must be used to supplement but not supplant the level of State funds expended as of October 1, 1998 for programs to enable working individuals with disabilities to work.

(2) MAINTENANCE OF EFFORT.—

With respect to a fiscal year quarter, no Federal funds may be paid to a State for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) for such fiscal year quarter if the Secretary of Health and Human Services determines that the total of the State expenditures for programs to enable working individuals

INSERT on page 10, after line 3:

(B) AMENDMENT TO EXCEPTIONS TO LIMIT ON FEDERAL FINANCIAL PARTICIPATION.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)), as amended by subsection (a)(2), is amended, in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XVI)," after "1902(a)(10)(A)(ii)(XV),".

1 with disabilities to work for the preceding fiscal year
 2 quarter is less than the total of such expenditures
 3 for the same fiscal year quarter of the preceding fis-
 4 cal year.

5 (3) CONDITION FOR APPROVAL OF STATE PLAN
 6 AMENDMENTS.--No State plan amendment that pro-
 7 poses to provide medical assistance to an individual
 8 described in subelause (XV) or (XVI) of section
 9 1902(a)(10)(A)(ii) of the Social Security Act (42
 10 U.S.C. 1396a(a)(10)(A)(ii)) may be approved unless
 11 the chief executive officer of the State certifies to
 12 the Secretary of Health and Human Services that
 13 the plan, as so amended, will satisfy the require-
 14 ments of paragraphs (1) and (2) of this subsection.

← INSERT

15 (A) EFFECTIVE DATE.—

16 (1) IN GENERAL. The amendments made by
 17 this section shall apply on and after October 1,
 18 1999.

19 (2) EXTENSION OF EFFECTIVE DATE FOR
 20 STATE LAW AMENDMENT.--In the case of a State
 21 plan under title XIX of the Social Security Act
 22 which the Secretary of Health and Human Services
 23 determines requires State legislation in order for the
 24 plan to meet the additional requirements imposed by
 25 the amendments made by this section, the State

INSERT on page 11, after line 15:

(d) CLARIFYING AMENDMENT.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4)), as amended by subsections (a)(2) and (b)(3)(B), is amended, in the matter preceding subparagraph (A), by inserting "1902(a)(10)(A)(ii)(XIII)," before "1902(a)(10)(A)(ii)(XV),".



NATIONAL COUNCIL ON DISABILITY

An independent federal agency working with the President and Congress to increase the inclusion, independence, and empowerment of all Americans with disabilities.

February 8, 1999

Melinda Haskins
Office of Management and Budget

Dear Ms. Haskins:

On behalf of the National Council on Disability (NCD), I am writing to convey comments on S. 331, The Work Incentives Improvement Act. We applaud Administration officials for leadership in developing this legislation.

As background, NCD is an independent federal agency with a board of fifteen members appointed by the President and confirmed by the Senate. Our mandate is to advise Congress and the Administration on public policy affecting America's 54 million people with disabilities. A top priority in recent years has been economic empowerment of the many citizens with disabilities who want to work but are impeded by Social Security, Medicaid, and Medicare rules that discourage such efforts. In February 1997, we sponsored a policy summit of forty consumers with expertise in Social Security disability programs, from which emerged a proposed set of consensus recommendations. These were widely circulated in the disability community, refined after a dozen public hearings around the country, and then published in the NCD report to Congress entitled Removing Barriers to Work.

NCD is gratified that Congress and the Administration have labored in a bipartisan fashion to develop the present Work Incentives legislation, which incorporates significant, positive reforms of the Social Security system for people with disabilities. Though not yet a comprehensive solution to the multiple deterrents faced by job seekers with disabilities, it offers meaningful policy change and a sound basis for more extensive reforms. After focused discussions NCD has had with leading consumer stake holders about the bill, we request that the Administration support the following modifications to the bill in the 106th Congress.

1. NCD supports Title I of the bill which allows states to establish programs enabling Social Security beneficiaries to "buy-in" to Medicaid coverage. Testimony at the public hearings we held in 1997 indicated that lack of health insurance is the biggest, single barrier in returning to work. We are concerned, however, that the current funding level for state infrastructures to support working individuals does not provide enough financial incentive for many states to undertake these voluntary activities. Therefore, we urge that the funding level for this effort be increased from \$150 to \$600 million over five years.

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2. NCD supports the creation of a two for one income offset, whereby individuals receiving SSDI would be allowed to keep \$1 of benefits for every \$2 of earnings. We are concerned by the large number of demonstration projects SSA has conducted since the 1970s, especially given the lack of full reporting and implementation of positive results. To strengthen the accountability of SSA in

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1331 F Street, NW ■ Suite 1050 ■ Washington, DC 20004-1107
(202) 272-2004 Voice ■ (202) 272-2074 TTY ■ (202) 272-2022 Fax

conducting the 2-for-1 demonstration project, we recommend that it be launched no later than one year after the legislation is enacted, and that its final report be issued no later than nine years thereafter.

3. NCD supports an expedited eligibility determination for applications of former long-term beneficiaries who completed an extended period of eligibility. We believe, however, that Congress should provide additional direction to SSA for establishing policies to meet this objective. We suggest that an applicant who re-applies for benefits, after completing an extended period of eligibility and returning to work, should only have to document a lack of medical improvement. The individual should not be required to go through the five month waiting process for benefits. In other words, once the individual has shown that the same level of disability remains, he or she would become immediately eligible for benefits again.

4. NCD is pleased that the legislation contains provisions for individuals with disabilities to obtain assistance from organizations other than SSA for learning about work incentives and for ensuring due process under the Ticket to Work program. We are concerned, however, that current legislative language may inadvertently restrict the Grants for protection and advocacy to State Protection and Advocacy agencies. We would support a more open process, where any non-profit organization could compete for funds to provide these services. In particular, we suggest eliminating the following eligibility criteria:

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.)."

5. NCD recommends that an additional issue be addressed by the legislation: the marriage penalty. SSI and SSDI beneficiaries who receive Medicaid face loss of their health coverage when they marry, because their spouse's income is included in the eligibility calculations. This is especially problematic when the individual is working and receiving Medicaid under Section 1619 or the BBA. It appears that the marriage penalty could still be problematic under Title I of this legislation if states consider family rather than individual income in determining resource limitations. This problem could be alleviated by stipulating that states consider only an individual's income in setting such limitations, and by amending the BBA and Section 1619 to consider individual rather than family income when determining Medicaid eligibility under these programs. In a similar spirit, NCD recommends elimination of the scholarship penalty, whereby merit-based assistance, awarded to promote career development, presently hampers eligibility for Social Security support because it is counted as unearned income.

Thank you for considering these comments. Please contact me if there is anything you wish to discuss further.

Sincerely yours,

Andrew Imperato

Andrew Imperato
Director of Policy

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE GENERAL COUNSEL
(DBAL)

Division Business and Administrative Law

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FOB-6 Room 6C106
Washington, D. C. 20202-2243
Tel. (202) 401-6700
Fax. (202) 401-9533

FACSIMILE TRANSMISSION COVER SHEET

DATE: 2-8-99

TO: Melinda Haskins OMB

FAX NO: _____

FROM: Randy Hansen

NUMBER OF PAGES INCLUDING COVER SHEET: 3

COMMENT:

Comments on S. 331

IMPORTANT NOTICE: This facsimile transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is **PRIVILEGED, CONFIDENTIAL OR EXEMPT FROM DISCLOSURE** under applicable law. If the reader of this message is not the intended recipient, or employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately and return the original message to us at the above address via the United States Postal Service. Thank you.

Memorandum:

February 8, 1999

TO: Melinda Haskins

FROM: Randy Hansen

SUBJECT: S. 331, the "Work Incentives Improvement Act of 1999"

The following are ED staff comments on S. 331, the "Work Incentives Improvement Act of 1999"

In general, ED staff is supportive of this legislation in its attempt to substantially reduce barriers that impede Social Security Disability Insurance (SSDI) beneficiaries and disabled Supplemental Security Income (SSI) recipients from returning to or entering the work force. Staff is particularly supportive of the provisions of Title I, "Expanded Availability of Health Care Services, which will extend Medicaid and Medicare benefits for longer periods to disabled beneficiaries, thus enhancing their willingness to return to, or attempt employment.

Our comments are focused on Title II of the bill, the "Ticket to Work and Self-Sufficiency Program", which would establish a "ticket" program (in section 201 of the bill), funding for grants, demonstrations, and cooperative agreements to create a work incentives outreach program (in section 221 of the bill), and state grants for work incentive assistance to disabled beneficiaries (in section 222 of the bill).

- Ticket to work. Section 201 of the bill would create a new section (section 1148) of The Social Security Act to establish a ticket system for disabled beneficiaries to exercise choice in their selection of a VR service provider.

We note, that a lot of the important issues with respect to State participation and the assigning of tickets are still left up to the Commissioner of SSA through regulations.

New section 1148(c) does not specifically address the status of the VR State agency if it elects not to participate as an employment network. The only place where this issue appears to be addressed is in the amendments on page 22 in subparagraphs (e)(2)(C) and (D) where it is listed as a matter to be addressed in regulations prescribed by the Commissioner of SSA.

Also, the language of section 1148(c)(1), "[W]ith respect to a disabled beneficiary that the State agency does not elect to have participate in the Program, the State agency shall be paid for services provided to the beneficiary under the system for payment applicable to under section 222(d) and subsections (d) and (e) of section 1615.", is awkward and hard to interpret. Is the language meant to allow the public VR program to participate in the ticket program with the option of reimbursement for services, either through the outcome payment system proposed by the bill, or through the provisions applicable under current law (sections 222 and 1615 of The Social Security Act)? This paragraph needs greater clarity.

We support the inclusion of requirements for a written work plan, as described in section 1149(g), which will ensure that disabled beneficiaries who go to providers other than the public VR program will have a clearly defined plan to state the services they will receive.

The provision describing the outcome milestone payment system (section 1148(h)(3)) remains confusing. It is not clear how payments using this method will actually be computed. We recommend that language in this section be clarified.

In section 201(b) of the bill there appears to be an inconsistency with respect to the status of section 222(a) of the Social Security Act. On page 19, subparagraph (b)(1)(B) repeals section 222(a) of the Social Security Act. However, on page 20, paragraph (d)(5)(i) refers to the

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requirement under section 222(a) of the SSA for prompt referrals. This needs to be resolved. Also, on page 21, subparagraph (C)(ii), Specific Matters to be Addressed in the Ongoing Evaluation of the Program, does not include employment retention. This is an important measure and is a required measure of under WIA and the VR program.

- Work Incentive Outreach Programs. Section 221 of the bill would amend The Social Security Act by adding section 1149 to deal with grants, demonstrations and cooperative agreements for the benefit of disabled individuals. We support this provision as it is stated in the bill, but would recommend inclusion of the term "agencies providing VR services, authorized under Title I of The Rehabilitation Act of 1973, as amended" in section 1149(b)(1)(C)(ii). The public VR program is already a primary point of information for disabled individuals, and should be mentioned in this section along with the other organizations and programs, such as Centers for Independent Living and Client Assistance Programs. We are otherwise in favor of the funding structure for this section, which gives authority for making these grants, demonstrations and cooperative agreements to the Commissioner of SSA.

Doc will do

- State Grants for Work Incentives Assistance to Disabled Beneficiaries. Section 222 of the bill would amend the Social Security Act by creating section 1150, giving SSA the authority to make grants to State Protection & Advocacy Systems (P&A's), to assist disabled beneficiaries. We are concerned that this provision does not go far enough in ensuring that disabled beneficiaries will be protected when they have disagreements with service providers.

X

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Section 1150(b)(1) describes the services that may be offered. They appear to be limited to information and advice about VR services and advocacy activities related to return to work. Such services fall far short of the protections afforded VR clients under section 112 of The Rehabilitation Act, (the Client Assistance Program), and are considerably less specific than the protections offered in the last draft of H.R. 3433.

Title IV, section 402 of H.R. 3433 required that one of the conditions to be met by P&A systems awarded funds to provide services to disabled beneficiaries was that they "... have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of, and advocacy for, the rights of individuals...". We recommend that similar language be included in S. 331 to strengthen section 1150.

Put P&A weakening on top her list

Author: Curtis Richards at WDCI04

Date: 02/08/99 11:34 AM

Priority: Normal

TO: jonathan_M_Young@who.eop.gov at INTERNET, rice_c@a1.eop.gov at INTERNET,

Judy Heumann at WDCI02, Fredric Schroeder at WDCI02

Subject: S 331 Comments

Jonathan & Cynthia

I couldn't remember who I was supposed to send these to, so can you please make sure they get in our informal working group hopper.

Here are the informal comments from the Education Department on S 331. I must emphasize that they have not been approved for clearance yet, although they have been submitted through the more formal process here.

In general, we support this legislation in its attempt to substantially reduce barriers which impede Social Security Disability Insurance (SSDI) beneficiaries, and disabled Supplemental Security Income (SSI) recipients from returning to or entering the work force. We are particularly supportive of the provisions of Title I, "Expanded Availability of Health Care Services, which will extend Medicaid and Medicare benefits for longer periods to disabled beneficiaries, thus enhancing their willingness to return to, or attempt employment. We are also generally supportive of the provisions of Title III, "Demonstration Projects and Studies", which extends SSA's demonstration authority, and will seek to look at the effectiveness of a gradual reduction of SSDI benefits for individuals who exceed the current substantial gainful activity (SGA) level.

We have grave concerns about the Protection and Advocacy piece of this bill, and would put this in the Tier 1 Major Issues category.

State Grants for Work Incentives Assistance to Disabled Beneficiaries. Sec. 222 of the bill would amend the Social Security Act by creating sec. 1150, giving SSA the authority to make grants to State Protection & Advocacy Systems (P&A's), to assist disabled beneficiaries. We are concerned that this provision does not go far enough in ensuring that disabled beneficiaries will be protected when they have disagreements with service providers.

Sec. 1150(b)(1) describes the services that may be offered. They appear to be limited to information and advice about VR services and advocacy activities related to return to work. Such services fall far short of the protections afforded VR clients under Sec. 112 of The Rehabilitation Act, (the Client Assistance Program), and are considerably less specific than the protections offered in the last draft of H.R. 3433.

Title IV, sec. 402 of H.R. 3433 required that one of the conditions to be met by P&A systems awarded funds to provide services to disabled beneficiaries was that they "... have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of, and advocacy for, the rights of individuals...". We

recommend that similar language be included in S. 331 to strengthen sec. 1150.

We only have two technical issues:

1) Ticket to work. Sec. 201 of the bill would create a new section (sec. 1148) of The Social Security Act to establish a ticket system for disabled beneficiaries to exercise choice in their selection of a VR service provider. We support the improved language in S. 331 which will allow the public VR program to participate in the ticket program with the option of reimbursement for services, either through the outcome payment system proposed by the bill, or through the provisions applicable under current law (sections 222 and 1615 of The Social Security Act). We also support the inclusion of requirements for a written work plan, as described in sec. 1149(g), which will ensure that disabled beneficiaries who go to providers other than the public VR program will have a clearly defined plan to state the services they will receive.

The provision describing the outcome milestone payment system (sec. 1148(h)(3)) remains confusing. It is not clear how payments using this method will actually be computed. We recommend that language in this section be clarified.

2) Work Incentive Outreach Programs. Sec. 221 would amend The Social Security Act by establishing sec. 1149 to deal with grants, demonstrations and cooperative agreements to disabled individuals. We support this provision as it is stated in the bill, but would recommend inclusion of the term "agencies providing VR services, authorized under Title I of The Rehabilitation Act of 1973, as amended" in sec. 1149(b)(1)(C)(ii). The public VR program is already a primary point of information for disabled individuals, and should be mentioned in this section along with the other organizations and programs, such as Centers for Independent Living and Client Assistance Programs. We are otherwise in favor of the funding structure for this section, which gives authority for making these grants, demonstrations and cooperative agreements to the Commissioner of SSA.

We hope this is helpful, and look forward to working through these issues.

Treasury Department

This provision allows individuals who have obtained an exemption from SECA on religious or conscience grounds under section 1402(e) of the Internal Revenue Code to apply to revoke the exemption. The provision limits the period during which an application for revocation can be made and the year as of which the revocation is effective.

Under the proposal, an application for revocation is to be filed "in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of such Code," i.e., sections 1401-1403. We urge that the reference to regulations be dropped from the statutory provision because the issuance of regulations can be an unwieldy administrative process. We suggest that the above-quoted language be changed to "in such form and manner, and with such official, as may be prescribed by the Commissioner of the Internal Revenue Service." That change will enable the Service to implement the revocation provision in the most administratively efficient manner.

We note that section 1704(b) of TRA '86 contained a similar provision. As part of reviewing the current proposal, we also reviewed the 1986 provision and legislative history. The current proposal is almost identical to the 1986 provision. However, the 1986 provision required that an application for revocation be filed before the applicant became entitled to benefits under section 202(a) or 223 of the Social Security Act. The current proposal does not contain that requirement. We have not identified a tax reason for requiring an application to be filed before entitlement to benefits under the Social Security Act; however, the Social Security Administration might wish to consider the need for such a requirement.



United States
Office of Government Ethics

1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

February 4, 1999

MEMORANDUM

TO: Janet R. Forsgren (for)
Assistant Director for
Legislative Reference

FROM: Jane Ley *JL*
Deputy Director for GRSP

SUBJECT: S. 331, Work Incentives Improvement Act of 1999

As you requested in IRM MDH17, we have reviewed the above-mentioned bill and have the following comments regarding Sec. 202 establishing the Work Incentives Advisory Panel.

As you may recall during the 105th Congress, we expressed concerns about and provided remedial language for a similar advisory panel that was contained in H.R. 3433, Ticket to Work and Self-Sufficiency Act of 1998. The Panel in S. 331, as introduced, does not suffer from the same deficiencies as its predecessor, and therefore, we do not have any objection to Sec. 202. We would like to suggest, however, that OMB ask the Department of Justice to review Sec. 202(c)(1), regarding the requirement that the Commissioner consult with congressional leaders on the Panel members' appointments, to ensure that it is consistent with the Appointments Clause.

If you have any questions about this response, please call either Melissa Cook or me at 208-8022.

LRM ID: MDH17
Act of 1999

SUBJECT: OMB Request for Views on S331 Work Incentives Improvement

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

memo for
FROM: February 8, 1999 (Date)
William Ratchford, Assoc. Admin. for
Congressional Affairs (Name)
GSA (Agency)
(202) 501-0563 (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- Concur
- No Objection
- No Comment
- See proposed edits on pages _____
- Other: comments attached
- FAX RETURN of _____ pages, attached to this response sheet

**Attachment
LRM #MDH17**

By Legislative Referral Memorandum dated February 4, 1999, your office requested the views of the General Services Administration (GSA) on S. 331, Work Incentives Improvement Act of 1999. GSA has reviewed the above subject and has the following comments.

GSA has reviewed the proposed legislation with respect to Section 202 which establishes the Work Incentives Advisory Panel within the Social Security Administration (SSA), to report to the President and the Congress. According to the legislative language, the panel is by reference subject to the Federal Advisory Committee Act (FACA), as amended, and also therefore, to the related GSA guidelines.

On the matter of substantive and compelling need for this advisory panel, and on the remainder of this legislation, GSA defers to the positions of both the Office of Management and Budget (OMB), SSA, and the affected agencies.

As we have indicated previously, OMB has stated that "(C)onsistent with Executive Order 12838 and the National Performance Review, "the Administration is working to reduce the number of advisory committees," and that "toward that end, the President (has) requested Congress to show restraint in the creation of new statutory committees...".

Finally, in a June 28, 1994, memorandum to agency heads regarding the further implementation of EO 12838, the Vice President noted, "the Administration will not support legislative language that establishes new advisory committees or seeks to exempt groups from the requirements of the Federal Advisory Committee Act."