

103RD CONGRESS
2^D SESSION

H. R. 4277

AMENDMENT

In the Senate of the United States,

May 23 (legislative day, May 16), 1994.

Resolved, That the bill from the House of Representatives (H.R. 4277) entitled “An Act to establish the Social Security Administration as an independent agency and to make other improvements in the old-age, survivors, and disability insurance program”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; AMENDMENT OF SOCIAL SECUR-***
2 ***RITY ACT; TABLE OF CONTENTS.***

3 *(a) SHORT TITLE.—This Act may be cited as the “So-*
4 *cial Security Administration Independence Act of 1994”.*

5 *(b) AMENDMENT OF SOCIAL SECURITY ACT.—Except*
6 *as otherwise expressly provided, whenever in this Act an*
7 *amendment is expressed in terms of an amendment to or*
8 *repeal of, a section or other provision, the reference shall*
9 *be considered to be made to that section or other provision*
10 *of the Social Security Act.*

1 (c) *TABLE OF CONTENTS.*—*The table of contents of this*
 2 *Act is as follows:*

Sec. 1. Short title; amendment of Social Security Act; table of contents.

TITLE I—ESTABLISHMENT OF NEW INDEPENDENT AGENCY

Sec. 101. Establishment of Social Security Administration as a separate, independent agency.

Sec. 102. Commissioner and Deputy Commissioner of Social Security.

Sec. 103. Social Security Advisory Board.

Sec. 104. Personnel; budgetary matters; seal of office.

Sec. 105. Transfers to the new Social Security Administration.

Sec. 106. Transitional rules.

Sec. 107. Effective dates.

TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to titles II and XVI of the Social Security Act.

Sec. 202. Other amendments.

Sec. 203. Rules of construction.

Sec. 204. Effective dates.

TITLE III—SOCIAL SECURITY DISABILITY AND REHABILITATION

Sec. 301. Short title.

Sec. 302. Reform of monthly insurance benefits based on disability involving substance abuse.

Sec. 303. Priority of treatment.

Sec. 304. Establishment of referral monitoring agencies required in all States.

Sec. 305. Proceeds from certain criminal activities constitute substantial gainful employment.

Sec. 306. Consistent penalty provisions for SSDI and SSI programs.

3 ***TITLE I—ESTABLISHMENT OF***
 4 ***NEW INDEPENDENT AGENCY***

5 ***SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINIS-***
 6 ***TRATION AS A SEPARATE, INDEPENDENT***
 7 ***AGENCY.***

8 *Section 701 (42 U.S.C. 901) is amended to read as*
 9 *follows:*

10 “*SOCIAL SECURITY ADMINISTRATION*

11 “*SEC. 701. There is hereby established, as an inde-*
 12 *pendent agency in the executive branch of the Government,*

1 *a Social Security Administration (hereafter in this title re-*
2 *ferred to as the 'Administration'). It shall be the duty of*
3 *the Administration to administer the old-age, survivors,*
4 *and disability insurance program under title II and the*
5 *supplemental security income program under title XVI.'.*

6 **SEC. 102. COMMISSIONER AND DEPUTY COMMISSIONER OF**
7 **SOCIAL SECURITY.**

8 *Section 702 (42 U.S.C. 902) is amended to read as*
9 *follows:*

10 *“COMMISSIONER AND DEPUTY COMMISSIONER*

11 *“Commissioner of Social Security*

12 *“SEC. 702. (a)(1) There shall be in the Administration*
13 *a Commissioner of Social Security (hereafter in this title*
14 *referred to as the 'Commissioner') who shall be appointed*
15 *by the President, with the advice and consent of the Senate.*

16 *“(2) The Commissioner shall be compensated at the*
17 *rate provided for level I of the Executive Schedule.*

18 *“(3) The Commissioner shall be appointed for a term*
19 *of 4 years coincident with the term of the President, or until*
20 *the appointment of a qualified successor.*

21 *“(4) The Commissioner shall be responsible for the ex-*
22 *ercise of all powers and the discharge of all duties of the*
23 *Administration, and shall have authority and control over*
24 *all personnel and activities thereof.*

25 *“(5) The Commissioner may prescribe such rules and*
26 *regulations as the Commissioner determines necessary or*

1 *appropriate to carry out the functions of the Administra-*
2 *tion. The regulations prescribed by the Commissioner shall*
3 *be subject to the rulemaking procedures established under*
4 *section 553 of title 5, United States Code.*

5 “(6) *The Commissioner may establish, alter, consoli-*
6 *date, or discontinue such organizational units or compo-*
7 *nents within the Administration as the Commissioner con-*
8 *siders necessary or appropriate, except that this paragraph*
9 *shall not apply with respect to any unit, component, or pro-*
10 *vision provided for by this Act.*

11 “(7) *The Commissioner may assign duties, and dele-*
12 *gate, or authorize successive redelegations of, authority to*
13 *act and to render decisions, to such officers and employees*
14 *of the Administration as the Commissioner may find nec-*
15 *essary. Within the limitations of such delegations,*
16 *redelegations, or assignments, all official acts and decisions*
17 *of such officers and employees shall have the same force and*
18 *effect as though performed or rendered by the Commissioner.*

19 “(8) *The Commissioner and the Secretary of Health*
20 *and Human Services (hereafter in this title referred to as*
21 *the ‘Secretary’) shall consult, on an ongoing basis, to en-*
22 *sure—*

23 “(A) *the coordination of the programs adminis-*
24 *tered by the Commissioner, as described in section*

1 701, with the programs administered by the Secretary
2 under titles XVIII and XIX of this Act; and

3 “(B) that adequate information concerning bene-
4 fits under such titles XVIII and XIX shall be avail-
5 able to the public.

6 “Deputy Commissioner of Social Security

7 “(b)(1) There shall be in the Administration a Deputy
8 Commissioner of Social Security (hereafter in this title re-
9 ferred to as the ‘Deputy Commissioner’) who shall be ap-
10 pointed by the President, with the advice and consent of
11 the Senate.

12 “(2) The Deputy Commissioner shall be appointed for
13 a term of 4 years coincident with the term of the
14 Commissioner, or until the appointment of a qualified
15 successor.

16 “(3) The Deputy Commissioner shall be compensated
17 at the rate provided for level II of the Executive Schedule.

18 “(4) The Deputy Commissioner shall perform such du-
19 ties and exercise such powers as the Commissioner shall
20 from time to time assign or delegate. The Deputy Commis-
21 sioner shall be Acting Commissioner of the Administration
22 during the absence or disability of the Commissioner and,
23 unless the President designates another officer of the Gov-
24 ernment as Acting Commissioner, in the event of a vacancy
25 in the office of the Commissioner.”.

1 **SEC. 103. SOCIAL SECURITY ADVISORY BOARD.**

2 *Section 703 (42 U.S.C. 903) is amended to read as*
3 *follows:*

4 *“SOCIAL SECURITY ADVISORY BOARD*

5 *“Establishment of Board*

6 *“SEC. 703. (a) There shall be established a Social Secu-*
7 *rity Advisory Board (hereinafter referred to as the ‘Board’).*

8 *“Functions of the Board*

9 *“(b) The Board shall advise the Commissioner on poli-*
10 *cies related to the old-age, survivors, and disability insur-*
11 *ance program under title II and the supplemental security*
12 *income program under title XVI. Specific functions of the*
13 *Board shall include—*

14 *“(1) analyzing the Nation’s retirement and dis-*
15 *ability systems and making recommendations with*
16 *respect to how the old-age, survivors, and disability*
17 *insurance program and the supplemental security in-*
18 *come program, supported by other public and private*
19 *systems, can most effectively assure economic security;*

20 *“(2) studying and making recommendations re-*
21 *lating to the coordination of programs that provide*
22 *health security with programs described in paragraph*
23 *(1);*

24 *“(3) making recommendations to the President*
25 *and to the Congress with respect to policies that will*
26 *ensure the solvency of the old-age, survivors, and dis-*

1 *ability insurance program, both in the short-term and*
2 *the long-term;*

3 *“(4) making recommendations to the President of*
4 *candidates to consider in selecting nominees for the*
5 *position of Commissioner and Deputy Commissioner;*

6 *“(5) reviewing and assessing the quality of serv-*
7 *ice that the Administration provides to the public;*

8 *“(6) reviewing and making recommendations*
9 *with respect to policies and regulations regarding the*
10 *old-age, survivors, and disability insurance program*
11 *and the supplemental security income program;*

12 *“(7) increasing public understanding of the so-*
13 *cial security system;*

14 *“(8) in consultation with the Commissioner, re-*
15 *viewing the development and implementation of a*
16 *long-range research and program evaluation plan for*
17 *the Administration;*

18 *“(9) reviewing and assessing any major studies*
19 *of social security as may come to the attention of the*
20 *Board; and*

21 *“(10) conducting such other reviews and assess-*
22 *ments that the Board determines to be appropriate.*

23 *“Structure and Membership of the Board*

24 *“(c) The Board shall be composed of 7 members who*
25 *shall be appointed as follows:*

1 “(1) 3 members shall be appointed by the Presi-
2 dent, with the advice and consent of the Senate. Not
3 more than 2 of such members shall be from the same
4 political party.

5 “(2) 2 members (each member from a different
6 political party) shall be appointed by the President
7 pro tempore of the Senate with the advice of the
8 Chairman and the Ranking Minority Member of the
9 Senate Committee on Finance.

10 “(3) 2 members (each member from a different
11 political party) shall be appointed by the Speaker of
12 the House of Representatives, with the advice of the
13 Chairman and the Ranking Minority Member of the
14 House Committee on Ways and Means.

15 “Terms of Appointment

16 “(d) Each member of the Board shall serve for a term
17 of 6 years, except that—

18 “(1) a member appointed to fill a vacancy occur-
19 ring prior to the expiration of the term for which a
20 predecessor was appointed, shall be appointed for the
21 remainder of such term; and

22 “(2) the terms of service of the members initially
23 appointed under this section shall expire as follows:

24 “(A) The terms of service of the members
25 initially appointed by the President shall expire

1 *as designated by the President at the time of*
2 *nomination, 1 each at the end of—*

3 “(i) 2 years;

4 “(ii) 4 years; and

5 “(iii) 6 years.

6 “(B) *The terms of service of members ini-*
7 *tially appointed by the President pro tempore of*
8 *the Senate shall expire as designated by the*
9 *President pro tempore of the Senate at the time*
10 *of nomination, 1 each at the end of—*

11 “(i) 4 years; and

12 “(ii) 6 years.

13 “(C) *The terms of service of members ini-*
14 *tially appointed by the Speaker of the House of*
15 *Representatives shall expire as designated by the*
16 *Speaker of the House of Representatives at the*
17 *time of nomination, 1 each at the end of—*

18 “(i) 3 years; and

19 “(ii) 5 years.

20 “Chairman

21 “(e) *A member of the Board shall be designated by the*
22 *President to serve as Chairman for a term of 4 years, coin-*
23 *cident with the term of the President, or until the designa-*
24 *tion of a successor.*

“Compensation

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“(f) Members of the Board shall be compensated as follows:

“(1) Members shall be paid at a rate equal to 25 percent of the rate for level III of the Executive Schedule.

“(2) For days when the Board or any authorized subcommittee of the Board meets, members who attend meetings on such days (including travel time) shall receive additional compensation in an amount equal to the daily equivalent of the rate for level III of the Executive Schedule.

“(3) While serving on business of the Board away from their homes or regular places of business, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

“(4) Service on the Board shall not be treated as Federal service or employment for purposes of receiving any benefits under chapters 83, 84, and 87 of title 5, United States Code.

“(5) A member of the Board may elect coverage of a health benefits plan under chapter 89 of title 5, United States Code. Such a member electing coverage

1 *shall have the applicable employee contributions*
2 *under section 8906 of such title withheld from pay for*
3 *service as a member of the Board. The Administra-*
4 *tion shall pay the applicable Government contribu-*
5 *tions under such section 8906 for such member. The*
6 *Office of Personnel Management shall promulgate reg-*
7 *ulations to apply the provisions of chapter 89 of such*
8 *title to Board members electing coverage as provided*
9 *under this paragraph.*

10 *“Meetings*

11 *“(g) The Board shall meet not less than 6 times each*
12 *year to consider a specific agenda of issues, as determined*
13 *by the Chairman in consultation with the other members*
14 *of the Board.*

15 *“Federal Advisory Committee Act*

16 *“(h) The Board shall be exempt from the provisions*
17 *of the Federal Advisory Committee Act (5 U.S.C. App.).*

18 *“Personnel*

19 *“(i)(1) The Board shall, without regard to title 5,*
20 *United States Code, appoint a Staff Director who shall be*
21 *paid at a rate equivalent to a rate for the Senior Executive*
22 *Service.*

23 *“(2) The Board is authorized, without regard to title*
24 *5, United States Code, to appoint and fix the compensation*

1 *of such additional personnel as the Board determines to be*
2 *necessary to carry out the functions of the Board.*

3 “(3) *In fixing the compensation of additional person-*
4 *nel under paragraph (2), the Board shall not authorize that*
5 *any individual appointed under such paragraph be com-*
6 *pensated at a rate that is greater than the rate of compensa-*
7 *tion of the Staff Director described in paragraph (1).*

8 *“Authorization of Appropriation*

9 “(j) *There are authorized to be made available for ex-*
10 *penditure, out of the Federal Disability Insurance Trust*
11 *Fund, the Federal Old Age and Survivors Insurance Trust*
12 *Fund, and the general fund in the Treasury, such sums as*
13 *the Congress may deem appropriate to carry out the pur-*
14 *poses of this section.”.*

15 **SEC. 104. PERSONNEL; BUDGETARY MATTERS; SEAL OF**
16 **OFFICE.**

17 *Section 704 is amended to read as follows:*

18 “ADMINISTRATIVE DUTIES OF THE COMMISSIONER

19 *“Personnel*

20 “SEC. 704. (a)(1) *The Commissioner shall appoint*
21 *such additional officers and employees as the Commissioner*
22 *considers necessary to carry out the functions of the Admin-*
23 *istration under this Act. Except as otherwise provided in*
24 *any other provision of law, such officers and employees shall*
25 *be appointed, and their compensation shall be fixed, in ac-*
26 *cordance with title 5, United States Code.*

1 “(2) Appropriations for administrative expenses of the
2 Administration are authorized to be provided on a biennial
3 basis.

4 “(3) Funds appropriated for the Administration to be
5 available on a contingency basis shall be apportioned upon
6 the occurrence of the stipulated contingency, as determined
7 by the Commissioner and reported to the Congress.

8 “Employment Restriction

9 “(c) The number of positions in the Administration
10 which may be excepted from the competitive service, on a
11 temporary or permanent basis, because of the confidential
12 or policy-determining character of such positions, may not
13 exceed at any time the equivalent of 10 full-time positions.

14 “Seal of Office

15 “(d) The Commissioner shall cause a seal of office to
16 be made for the Administration of such design as the Com-
17 missioner shall approve. Judicial notice shall be taken of
18 such seal.”.

19 **SEC. 105. TRANSFERS TO THE NEW SOCIAL SECURITY AD-**
20 **MINISTRATION.**

21 (a) *FUNCTIONS.*—There are transferred to the Social
22 Security Administration all functions carried out by the
23 Secretary of Health and Human Services with respect to
24 the programs and activities the administration of which is
25 vested in the Social Security Administration by reason of

1 *this title and the amendments made thereby. The Commis-*
2 *sioner of Social Security shall allocate such functions in*
3 *accordance with sections 701, 702, 703, and 704 of the So-*
4 *cial Security Act (as amended by this title).*

5 (b) *PERSONNEL, ASSETS, ETC.—(1) There are trans-*
6 *ferred from the Department of Health and Human Services*
7 *to the Social Security Administration, for appropriate allo-*
8 *cation by the Commissioner of Social Security in the Social*
9 *Security Administration—*

10 (A) *the personnel employed in connection with*
11 *the functions transferred by this title and the amend-*
12 *ments made thereby; and*

13 (B) *the assets, liabilities, contracts, property,*
14 *records, and unexpended balance of appropriations,*
15 *authorizations, allocations, and other funds employed,*
16 *held, or used in connection with such functions, aris-*
17 *ing from such functions, or available, or to be made*
18 *available, in connection with such functions.*

19 (2) *Unexpended funds transferred pursuant to this*
20 *subsection shall be used only for the purposes for which the*
21 *funds were originally authorized and appropriated.*

22 (3) *Any individual who is an employee of the Depart-*
23 *ment and who was not employed on the date of the enact-*
24 *ment of this title, in connection with functions transferred*
25 *by this title to the Administration, but who was so em-*

1 *ployed on the day before the date established pursuant to*
2 *section 107(a), may be transferred from the Department of*
3 *Health and Human Services to the Social Security Admin-*
4 *istration by the Commissioner under subparagraph (A) of*
5 *paragraph (1), after consultation with the Secretary of*
6 *Health and Human Services, if the Commissioner deter-*
7 *mines such transfer to be appropriate.*

8 *(4) Any individual who is an employee of the Depart-*
9 *ment and who was employed on the date of the enactment*
10 *of this title, solely in connection with functions transferred*
11 *by this title to the Administration, and who was so em-*
12 *ployed on the day before the date established pursuant to*
13 *section 107(a), shall be transferred from the Department of*
14 *Health and Human Services to the Social Security*
15 *Administration.*

16 *(c) ABOLISHMENT OF OFFICE OF COMMISSIONER IN*
17 *THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—*
18 *Effective upon the appointment of a Commissioner of Social*
19 *Security pursuant to section 702 of the Social Security Act*
20 *(as amended by this title)—*

21 *(1) the position of Commissioner of Social Secu-*
22 *urity in the Department of Health and Human Serv-*
23 *ices is abolished; and*

24 *(2) section 5315 of title 5, United States Code,*
25 *is amended by striking the following:*

1 “Commissioner of Social Security, Department
2 of Health and Human Services.”.

3 **SEC. 106. TRANSITIONAL RULES.**

4 (a) *TRANSITION DIRECTOR.*—(1) *Within 30 days after*
5 *the date of the enactment of this Act, a transition director*
6 *shall be appointed by the President, who shall be selected*
7 *on the basis of experience and knowledge of the operation*
8 *of the Government.*

9 (2) *The transition director shall conduct activities nec-*
10 *essary to ensure the transition of the Social Security Ad-*
11 *ministration to the status of an independent agency in the*
12 *executive branch of the Government. In conducting such ac-*
13 *tivities before the appointment of the Commissioner of So-*
14 *cial Security, the transition director shall consult regularly*
15 *with the Director of the Office of Management and Budget.*
16 *Upon such appointment, the transition director shall con-*
17 *duct such activities at the direction of the Commissioner*
18 *of Social Security.*

19 (3) *The transition director shall be compensated at the*
20 *rate provided for level IV of the Executive Schedule.*

21 (4) *Expenditures to carry out the purposes of this sub-*
22 *section shall be made out of the Federal Old Age and Survi-*
23 *vors Insurance Trust Fund and the Federal Disability In-*
24 *surance Trust Fund.*

1 (b) *INTERIM AUTHORITY FOR APPOINTMENT AND COM-*
2 *PENSATION.*—

3 (1) *APPOINTMENT OF COMMISSIONER.*—*Within*
4 *60 days of the date of the enactment of this title, the*
5 *Commissioner of Social Security shall be appointed*
6 *by the President pursuant to section 702 of the Social*
7 *Security Act (as amended by this title). If the ap-*
8 *pointment is made pursuant to such section before the*
9 *date established pursuant to section 107(a), the Com-*
10 *missioner of Social Security shall also perform the*
11 *duties assigned to the Commissioner of Social Secu-*
12 *rity in the Department of Health and Human Serv-*
13 *ices.*

14 (2) *OTHER APPOINTMENTS.*—*At any time on or*
15 *after the date of the enactment of this title any of the*
16 *other officers provided for in sections 702 and 703 of*
17 *the Social Security Act (as amended by this title)*
18 *may be nominated and appointed, as provided in*
19 *such sections.*

20 (3) *COMPENSATION.*—*Funds available to any of-*
21 *ficial or component of the Department of Health and*
22 *Human Services, functions of which are transferred to*
23 *the Commissioner of Social Security or the Social Se-*
24 *curity Administration by this title, may with the ap-*
25 *proval of the Director of the Office of Management*

1 *and Budget, be used to pay the compensation and ex-*
2 *penses of any officer appointed pursuant to this sub-*
3 *section until such time as funds for that purpose are*
4 *otherwise available.*

5 *(c) CONTINUATION OF ORDERS, DETERMINATIONS,*
6 *RULES, REGULATIONS, ETC.—All orders, determinations,*
7 *rules, regulations, permits, contracts, collective bargaining*
8 *agreements (and ongoing negotiations relating to such col-*
9 *lective bargaining agreements), recognitions of labor orga-*
10 *nizations, certificates, licenses, and privileges—*

11 *(1) which have been issued, made, promulgated,*
12 *granted, or allowed to become effective, in the exercise*
13 *of functions (A) which were exercised by the Secretary*
14 *of Health and Human Services (or the Secretary's*
15 *delegate), and (B) which relate to functions which, by*
16 *reason of this title, the amendments made thereby,*
17 *and regulations prescribed thereunder, are vested in*
18 *the Commissioner of Social Security; and*

19 *(2) which are in effect immediately before the*
20 *date established pursuant to section 107(a),*
21 *shall (to the extent that they relate to functions described*
22 *in paragraph (1)(B)) continue in effect according to their*
23 *terms until modified, terminated, suspended, set aside, or*
24 *repealed by such Commissioner, except that any collective*

1 *bargaining agreement shall remain in effect until the date*
2 *of termination specified in such agreement.*

3 (d) *CONTINUATION OF PROCEEDINGS.*—*The provisions*
4 *of this title (including the amendments made thereby) shall*
5 *not affect any proceeding pending before the Secretary of*
6 *Health and Human Services immediately before the date*
7 *established pursuant to section 107(a), with respect to func-*
8 *tions vested (by reason of this title, the amendments made*
9 *thereby, and regulations prescribed thereunder) in the Com-*
10 *missioner of Social Security, except that such proceedings,*
11 *to the extent that such proceedings relate to such functions,*
12 *shall continue before such Commissioner. Orders shall be is-*
13 *sued under any such proceeding, appeals taken therefrom,*
14 *and payments shall be made pursuant to such orders, in*
15 *like manner as if this title had not been enacted, and orders*
16 *issued in any such proceeding shall continue in effect until*
17 *modified, terminated, superseded, or repealed by such Com-*
18 *missioner, by a court of competent jurisdiction, or by oper-*
19 *ation of law.*

20 (e) *CONTINUATION OF SUITS.*—*Except as provided in*
21 *this subsection—*

22 (1) *the provisions of this title shall not affect*
23 *suits commenced before the date established pursuant*
24 *to section 107(a); and*

1 (2) *in all such suits proceedings shall be had, ap-*
2 *peals taken, and judgments rendered, in the same*
3 *manner and effect as if this title had not been en-*
4 *acted.*

5 *No cause of action, and no suit, action, or other proceeding*
6 *commenced by or against any officer in such officer's offi-*
7 *cial capacity as an officer of the Department of Health and*
8 *Human Services, shall abate by reason of the enactment of*
9 *this title. Causes of action, suits, actions, or other proceed-*
10 *ings may be asserted by or against the United States and*
11 *the Social Security Administration, or such official of such*
12 *Administration as may be appropriate, and, in any litiga-*
13 *tion pending immediately before the date established pursu-*
14 *ant to section 107(a), the court may at any time, on the*
15 *court's own motion or that of a party, enter an order which*
16 *will give effect to the provisions of this subsection (includ-*
17 *ing, where appropriate, an order for substitution of par-*
18 *ties).*

19 (f) *CONTINUATION OF PENALTIES.—This title shall not*
20 *have the effect of releasing or extinguishing any criminal*
21 *prosecution, penalty, forfeiture, or liability incurred as a*
22 *result of any function which (by reason of this title, the*
23 *amendments made thereby, and regulations prescribed*
24 *thereunder) is vested in the Commissioner of Social*
25 *Security.*

1 (g) *JUDICIAL REVIEW.*—Orders and actions of the
2 Commissioner of Social Security in the exercise of functions
3 vested in such Commissioner under this title (and the
4 amendments made thereby) shall be subject to judicial re-
5 view to the same extent and in the same manner as if such
6 orders had been made and such actions had been taken by
7 the Secretary of Health and Human Services in the exercise
8 of such functions immediately before the date established
9 pursuant to section 107(a). Any statutory requirements re-
10 lating to notice, hearings, action upon the record, or admin-
11 istrative review that apply to any function so vested in such
12 Commissioner shall continue to apply to the exercise of such
13 function by such Commissioner.

14 (h) *EXERCISE OF FUNCTIONS.*—In the exercise of the
15 functions vested in the Commissioner of Social Security
16 under this title, the amendments made thereby, and regula-
17 tions prescribed thereunder, such Commissioner shall have
18 the same authority as that vested in the Secretary of Health
19 and Human Services with respect to the exercise of such
20 functions immediately preceding the vesting of such func-
21 tions in such Commissioner, and actions of such Commis-
22 sioner shall have the same force and effect as when exercised
23 by such Secretary.

24 (i) *REPORT.*—Within 120 days of the date of the enact-
25 ment of this title, the transition director and the Commis-

1 *sioner of Social Security shall report to the Congress on*
2 *the status of the transition to an independent Social Secu-*
3 *rity Administration, and on any significant internal re-*
4 *structuring or management improvements that are pro-*
5 *posed to be undertaken.*

6 **SEC. 107. EFFECTIVE DATES.**

7 (a) *IN GENERAL.*—*Except as provided in subsection*
8 *(b), this title, and the amendments made by such title shall*
9 *take effect on the earlier of—*

10 (1) *the date which is 180 days after the date of*
11 *the enactment of this Act, or*

12 (2) *a date designated by the President.*

13 (b) *TRANSITIONAL RULES.*—*Section 106 shall take ef-*
14 *fect on the date of the enactment of this title.*

15 **TITLE II—CONFORMING**
16 **AMENDMENTS**

17 **SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SO-**
18 **CIAL SECURITY ACT.**

19 (a) *IN GENERAL.*—*Title II (42 U.S.C. 401 et seq.)*
20 *(other than section 201, section 218(d), section 231(c), sec-*
21 *tion 226, and section 226A) and title XVI (42 U.S.C. 1382*
22 *et seq.) (other than sections 1614(f)(2)(B) and 1616(e)(3))*
23 *are each amended—*

1 (1) by striking, wherever it appears therein,
2 “Secretary of Health and Human Services” and in-
3 serting “Commissioner of Social Security”;

4 (2) by striking, wherever it appears therein, “De-
5 partment of Health and Human Services” and insert-
6 ing “Social Security Administration”;

7 (3) by striking, wherever it appears therein, “De-
8 partment” (but only if it is not immediately suc-
9 ceeded by the words “of Health and Human Serv-
10 ices”, and only if it is used in reference to the De-
11 partment of Health and Human Services) and insert-
12 ing “Administration”;

13 (4) by striking, wherever it appears therein, each
14 of the following words (but, in the case of any such
15 word only if such word refers to the Secretary of
16 Health and Human Services): “Secretary”, “Sec-
17 retary’s”, “his”, “him”, “he”, “her”, and “she”, and
18 inserting (in the case of the word “Secretary”) “Com-
19 missioner of Social Security”, (in the case of the word
20 “Secretary’s”) “Commissioner’s”, (in the case of the
21 word “his”) “the Commissioner’s”, (in the case of the
22 word “him”) “the Commissioner”, (in the case of the
23 word “her”) “the Commissioner” or “the Commis-
24 sioner’s”, as may be appropriate, and (in the case of
25 the words “she” or “he”) “the Commissioner”; and

1 (5) by striking, wherever it appears therein, “In-
2 ternal Revenue Code of 1954” and inserting “Internal
3 Revenue Code of 1986”.

4 (b) AMENDMENTS TO SECTION 201.—(1)(A) Sections
5 201(a)(3), 201(a)(4), 201(b)(1), and 201(b)(2) (42 U.S.C.
6 401(a)(3), 401(a)(4), 401(b)(1), and 401(b)(2), respectively)
7 are each amended by striking “Secretary of Health and
8 Human Services” each place it appears and inserting
9 “Commissioner of Social Security”; and

10 (B) Sections 201(a)(3) and 201(b)(1) (42 U.S.C.
11 401(a)(3) and 401(b)(1), respectively) are each amended by
12 striking “such Secretary” and inserting “such Commis-
13 sioner”.

14 (2) Section 201(c) (42 U.S.C. 401(c)) is amended—

15 (A) in the first sentence, by striking “shall be
16 composed of” and all that follows down through “ex
17 officio” and inserting the following: “shall be com-
18 posed of the Commissioner of Social Security, the Sec-
19 retary of the Treasury, and the Secretary of Health
20 and Human Services, all ex officio”; and

21 (B) in the fifth sentence, by striking “The Com-
22 missioner of Social Security” and inserting “The
23 Deputy Commissioner of Social Security”.

24 (3) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is
25 amended—

1 (A) in clause (i), by striking “by him and the
2 Secretary of Health and Human Services” and in-
3 serting “by him, the Commissioner of Social Security,
4 and the Secretary of Health and Human Services”,
5 and by striking “by the Department of Health and
6 Human Services and the Treasury Department” and
7 inserting “by the Social Security Administration, the
8 Department of Health and Human Services, and the
9 Department of the Treasury”;

10 (B) in clause (ii), by striking “method prescribed
11 by the Board of Trustees under paragraph (4)” and
12 inserting “applicable method prescribed under para-
13 graph (4)”, by striking “the Secretary of Health and
14 Human Services” and inserting “the Commissioner of
15 Social Security and the Secretary of Health and
16 Human Services”, and by striking “the Department
17 of Health and Human Services” and inserting “the
18 Social Security Administration and the Department
19 of Health and Human Services”; and

20 (C) by striking the last sentence and inserting
21 the following: “There are hereby authorized to be
22 made available for expenditure, out of any or all of
23 the Trust Funds, such amounts as the Congress may
24 deem appropriate to pay the costs of the part of the
25 administration of this title and title XVI for which

1 *the Commissioner of Social Security is responsible,*
2 *the costs of title XVIII for which the Secretary of*
3 *Health and Human Services is responsible, and the*
4 *costs of carrying out the functions of the Social Secu-*
5 *urity Administration, specified in section 232, which*
6 *relate to the administration of provisions of the Inter-*
7 *nal Revenue Code of 1986 other than those referred to*
8 *in clause (i) of the first sentence of this subpara-*
9 *graph.”.*

10 *(4) Section 201(g)(1) (42 U.S.C. 401(g)(1)) is further*
11 *amended by striking subparagraph (B) and inserting the*
12 *following new subparagraphs:*

13 *“(B) After the close of each fiscal year—*

14 *“(i) the Commissioner of Social Security shall*
15 *determine (I) the portion of the costs, incurred during*
16 *such fiscal year, of administration of this title and*
17 *title XVI and of carrying out the functions of the So-*
18 *cial Security Administration, specified in section 232,*
19 *which relate to the administration of provisions of the*
20 *Internal Revenue Code of 1986 (other than those re-*
21 *ferred to in clause (i) of the first sentence of subpara-*
22 *graph (A)), which should have been borne by the gen-*
23 *eral fund in the Treasury, (II) the portion of such*
24 *costs which should have been borne by the Federal*
25 *Old-Age and Survivors Insurance Trust Fund, and*

1 *(III) the portion of such costs which should have been*
2 *borne by the Federal Disability Insurance Trust*
3 *Fund, and*

4 *“(ii) the Secretary of Health and Human Serv-*
5 *ices shall determine (I) the portion of the costs, in-*
6 *curring during such fiscal year, of administration of*
7 *title XVIII which should have been borne by the gen-*
8 *eral fund in the Treasury, (II) the portion of such*
9 *costs which should have been borne by the Federal*
10 *Hospital Insurance Trust Fund, and (III) the portion*
11 *of such costs which should have been borne by the*
12 *Federal Supplementary Medical Insurance Trust*
13 *Fund,*

14 *except that the determination of the amounts to be borne*
15 *by the general fund in the Treasury with respect to expendi-*
16 *tures incurred in carrying out such functions specified in*
17 *section 232 shall be made pursuant to the applicable method*
18 *prescribed under paragraph (4) of this subsection.*

19 *“(C) After the determinations under subparagraph (B)*
20 *have been made for any fiscal year, the Commissioner of*
21 *Social Security and the Secretary of Health and Human*
22 *Services shall jointly certify to the Managing Trustee the*
23 *amounts, if any, which should be transferred from one to*
24 *any of the other of such Trust Funds and the amounts, if*
25 *any, which should be transferred between the Trust Funds*

1 *(or one of the Trust Funds) and the general fund in the*
2 *Treasury, in order to ensure that each of the Trust Funds*
3 *and the general fund in the Treasury have borne their prop-*
4 *er share of the costs, incurred during such fiscal year, for*
5 *(i) the part of the administration of this title and title XVI*
6 *for which the Commissioner of Social Security is respon-*
7 *sible, (ii) the part of the administration of this title and*
8 *title XVIII for which the Secretary of Health and Human*
9 *Services is responsible, and (iii) carrying out the functions*
10 *of the Social Security Administration, specified in section*
11 *232, which relate to the administration of provisions of the*
12 *Internal Revenue Code of 1986 (other than those referred*
13 *to in clause (i) of the first sentence of subparagraph (A)).*
14 *The Managing Trustee shall transfer any such amounts in*
15 *accordance with any certification so made.”.*

16 *(5) Section 201(g)(2) (42 U.S.C. 401(g)(2)) is amend-*
17 *ed, in the second sentence, by striking “established and*
18 *maintained by the Secretary of Health and Human Serv-*
19 *ices” and inserting “maintained by the Commissioner of*
20 *Social Security”, and by striking “Secretary shall furnish”*
21 *and inserting “Commissioner of Social Security shall fur-*
22 *nish”.*

23 *(6) Section 201(g)(4) (42 U.S.C. 401(g)(4)) is amend-*
24 *ed to read as follows:*

1 “(4) *The Commissioner of Social Security shall utilize*
2 *the method prescribed pursuant to this paragraph, as in*
3 *effect immediately before the date of the enactment of the*
4 *Social Security Administration Independence Act of 1994*
5 *for determining the costs which should be borne by the gen-*
6 *eral fund in the Treasury of carrying out the functions of*
7 *the Social Security Administration, specified in section*
8 *232, which relate to the administration of provisions of the*
9 *Internal Revenue Code of 1986 (other than those referred*
10 *to in clause (i) of the first sentence of paragraph (1)(A)).*
11 *If at any time or times thereafter the Boards of Trustees*
12 *of such Trust Funds consider such action advisable, such*
13 *Boards may modify the method of determining such costs.”.*

14 (7) *Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended*
15 *to read as follows:*

16 “(i)(1) *The Managing Trustee may accept on behalf*
17 *of the United States money gifts and bequests made uncon-*
18 *ditionally to the Federal Old-Age and Survivors Insurance*
19 *Trust Fund, the Federal Disability Insurance Trust Fund,*
20 *the Federal Hospital Insurance Trust Fund, or the Federal*
21 *Supplementary Medical Insurance Trust Fund or to the So-*
22 *cial Security Administration, the Department of Health*
23 *and Human Services, or any part or officer thereof, for the*
24 *benefit of any of such Funds or any activity financed*
25 *through such Funds.”.*

1 (8) Subsections (j) and (k) of section 201 (42 U.S.C.
2 401) are each amended by striking “Secretary” each place
3 it appears and inserting “Commissioner of Social
4 Security”.

5 (9) Section 201(l)(3)(B)(iii)(II) (42 U.S.C.
6 401(l)(3)(B)(iii)(II)) is amended by striking “Secretary”
7 and inserting “Commissioner of Social Security”.

8 (10) Section 201(m)(3) (42 U.S.C. 401(m)(3)) is
9 amended by striking “Secretary of Health and Human
10 Services” and inserting “Commissioner of Social Security”.

11 (11) Section 201 (42 U.S.C. 401) is amended by strik-
12 ing “Internal Revenue Code of 1954” each place it appears
13 and inserting “Internal Revenue Code of 1986”.

14 (c) AMENDMENTS TO SECTION 218.—Section 218(d)
15 (42 U.S.C. 418(d)) is amended by striking “Secretary” each
16 place it appears in paragraphs (3) and (7) and inserting
17 “Commissioner of Social Security”.

18 (d) AMENDMENT TO SECTION 231.—Section 231(c) (42
19 U.S.C. 431(c)) is amended by striking “Secretary deter-
20 mines” and inserting “Commissioner of Social Security
21 and the Secretary jointly determine”.

22 **SEC. 202. OTHER AMENDMENTS.**

23 (a) AMENDMENTS TO TITLE VII.—(1) Title VII (42
24 U.S.C. 901 et seq.) is amended by adding at the end the
25 following new section:

1 *and inserting “(for amounts which will be paid from the*
2 *Federal Old-Age and Survivors Insurance Trust Fund and*
3 *the Federal Disability Insurance Trust Fund, as estimated*
4 *by the Commissioner, and for amounts which will be paid*
5 *from the Federal Hospital Insurance Trust and the Federal*
6 *Supplementary Medical Insurance Trust Fund, as esti-*
7 *mated by the Secretary)”.*

8 (4) *Sections 709 and 710 (42 U.S.C. 910 and 911)*
9 *are amended by striking “Internal Revenue Code of 1954”*
10 *each place it appears and inserting “Internal Revenue Code*
11 *of 1986”.*

12 (b) *AMENDMENTS TO TITLE XI.—(1) Section 1101(a)*
13 *(42 U.S.C. 1301(a)) is amended by adding at the end the*
14 *following new paragraph:*

15 *“(10) The term ‘Administration’ means the So-*
16 *cial Security Administration, except where the con-*
17 *text requires otherwise.”.*

18 (2) *Section 1106(a) (42 U.S.C. 1306(a)) is amended—*

19 (A) *by inserting “(1)” after “(a)”;*

20 (B) *by striking “Department of Health and*
21 *Human Services” each place it appears and inserting*
22 *“applicable agency”;*

23 (C) *by striking “Secretary” each place it ap-*
24 *pears and inserting “head of the applicable agency”;*

25 *and*

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

3 “(2) For purposes of this subsection and subsection (b),
4 the term ‘applicable agency’ means—

5 “(A) the Social Security Administration, with
6 respect to matter transmitted to or obtained by such
7 Administration or matter disclosed by such Adminis-
8 tration, or

9 “(B) the Department of Health and Human
10 Services, with respect to matter transmitted to or ob-
11 tained by such Department or matter disclosed by
12 such Department.”.

13 (3) Section 1106(b) (42 U.S.C. 1306(b)) is amended—

14 (A) by striking “Secretary” each place it ap-
15 pears and inserting “head of the applicable agency”;
16 and

17 (B) by striking “Department of Health and
18 Human Services” and inserting “applicable agency”.

19 (4) Section 1106(c) (42 U.S.C. 1306(c)) is amended—

20 (A) by striking “the Secretary” the first place it
21 appears and inserting “the Commissioner of Social
22 Security or the Secretary”; and

23 (B) by striking “the Secretary” each subsequent
24 place it appears and inserting “such Commissioner or
25 Secretary”.

1 (5) *Section 1107(b) (42 U.S.C. 1307(b)) is amended*
2 *by striking “the Secretary of Health and Human Services”*
3 *and inserting “the Commissioner of Social Security or the*
4 *Secretary”.*

5 (6) *Section 1110 (42 U.S.C. 1310) is amended—*

6 (A) *in subsection (a)(2), by inserting “(or the*
7 *Commissioner, with respect to any jointly financed*
8 *cooperative agreement or grant concerning titles II or*
9 *XVI)” after “Secretary”;*

10 (B) *in subsection (b)—*

11 (i) *by striking “Secretary” each place it ap-*
12 *pears and inserting “Commissioner”, and*

13 (ii) *by striking “the Secretary’s” each place*
14 *it appears and inserting “the Commissioner’s”;*
15 *and*

16 (C) *by striking “he”, “his”, “him”, and “him-*
17 *self” each place they appear (except in subsection*
18 *(b)(2)(A)) and inserting “the Commissioner”, “the*
19 *Commissioner’s”, “the Commissioner”, and “himself*
20 *or herself”, respectively.*

21 (7) *Subsections (b) and (c) of section 1127 (42 U.S.C.*
22 *1320a–6) are each amended by striking “Secretary” and*
23 *inserting “Commissioner of Social Security”.*

24 (8) *Section 1128(f) (42 U.S.C. 1320a–7(f)) is amended*
25 *by inserting after “section 205(g)” the following: “, except*

1 *that, in so applying such sections and section 205(l), any*
2 *reference therein to the Commissioner of Social Security or*
3 *the Social Security Administration shall be considered a*
4 *reference to the Secretary or the Department of Health and*
5 *Human Services, respectively”.*

6 *(9) Section 1131 (42 U.S.C. 1320b-1) is amended—*

7 *(A) by striking “Secretary” each place it ap-*
8 *pears and inserting “Commissioner of Social Secu-*
9 *urity”;*

10 *(B) in subsection (a)(1)(A), by adding “or” at*
11 *the end;*

12 *(C) in subsection (a)(1)(B), by striking “or” at*
13 *the end;*

14 *(D) by striking subsection (a)(1)(C);*

15 *(E) by redesignating subsection (a)(2) as sub-*
16 *section (a)(3);*

17 *(F) by inserting after subsection (a)(1) the fol-*
18 *lowing new paragraph:*

19 *“(2) the Secretary makes a finding of fact and a deci-*
20 *sion as to the entitlement under section 226 of any individ-*
21 *ual to hospital insurance benefits under part A of title*
22 *XVIII, or”;* and

23 *(G) by striking “he” in the matter in subsection*
24 *(a) following paragraph (3) (as so redesignated) and*
25 *inserting “the Commissioner of Social Security”.*

1 (10) Section 1155 (42 U.S.C. 1320c-4) is amended by
2 striking “(to the same extent as is provided in section
3 205(b))” and all that follows and inserting “(to the same
4 extent as beneficiaries under title II are entitled to a hear-
5 ing by the Commissioner of Social Security under section
6 205(b)). For purposes of the preceding sentence, subsection
7 (l) of section 205 shall apply, except that any reference in
8 such subsection to the Commissioner of Social Security or
9 the Social Security Administration shall be deemed a ref-
10 erence to the Secretary or the Department of Health and
11 Human Services, respectively. Where the amount in con-
12 troversy is \$2,000 or more, such beneficiary shall be entitled
13 to judicial review of any final decision relating to a recon-
14 sideration described in this subsection.”.

15 (11) Sections 1101, 1106, 1107, and 1137 (42 U.S.C.
16 1301, 1306, 1307, and 1320b-7, respectively) are amended
17 by striking “Internal Revenue Code of 1954” each place it
18 appears and inserting “Internal Revenue Code of 1986”.

19 (c) AMENDMENTS TO TITLE XVIII.—(1) Subsections
20 (a) and (f) of section 1817 (42 U.S.C. 1395i) are amended
21 by striking “Secretary of Health and Human Services”
22 each place it appears and inserting “Commissioner of So-
23 cial Security”.

24 (2) Section 1840(a) (42 U.S.C. 1395s(a)) is amend-
25 ed—

1 (A) in paragraph (1), by striking “Secretary”
2 and inserting “Commissioner of Social Security”,
3 and by adding at the end the following new sentence:
4 “Such regulations shall be prescribed after consulta-
5 tion with the Secretary.”; and

6 (B) in paragraph (2), by striking “Secretary of
7 Health and Human Services” and inserting “Com-
8 missioner of Social Security”.

9 (3) Section 1872 (42 U.S.C. 1395ii) is amended by
10 inserting after “title II” the following: “, except that, in
11 applying such provisions with respect to this title, any ref-
12 erence therein to the Commissioner of Social Security or
13 the Social Security Administration shall be considered a
14 reference to the Secretary or the Department of Health and
15 Human Services, respectively”.

16 (4) Section 1869(b)(1) (42 U.S.C. 1395ff(b)(1)) and
17 the last sentence of section 1876(c)(5)(B) (42 U.S.C.
18 1395mm(c)(5)(B)) are amended by inserting after “section
19 205(g)” the following: “, except that, in so applying such
20 sections and section 205(l), any reference therein to the
21 Commissioner of Social Security or the Social Security Ad-
22 ministration shall be considered a reference to the Secretary
23 or the Department of Health and Human Services, respec-
24 tively”.

1 (5) Sections 1817, 1862, and 1886 (42 U.S.C. 1395i,
2 1395y, and 1395ww, respectively) are amended by striking
3 “Internal Revenue Code of 1954” each place it appears and
4 inserting “Internal Revenue Code of 1986”.

5 (d) AMENDMENTS TO TITLE XIX.—(1) Section
6 1905(q)(2) (42 U.S.C. 1396d(q)(2)) is amended by striking
7 “Secretary” and inserting “Commissioner of Social Secu-
8 rity”.

9 (2) Section 1910(b)(2) (42 U.S.C. 1396i(b)(2)) is
10 amended, in the first sentence, by inserting after “section
11 205(g)” the following: “, except that, in so applying such
12 sections and section 205(l), any reference therein to the
13 Commissioner of Social Security or the Social Security Ad-
14 ministration shall be considered a reference to the Secretary
15 or the Department of Health and Human Services, respec-
16 tively”.

17 (e) AMENDMENT TO TITLE XX.—Section
18 2002(a)(2)(B) (42 U.S.C. 1397a(a)(2)(B)) is amended by
19 striking “Internal Revenue Code of 1954” and inserting
20 “Internal Revenue Code of 1986”.

21 (f) AMENDMENTS TO TITLE 5, UNITED STATES
22 CODE.—Title 5, United States Code, is amended—

23 (1) by adding at the end of section 5311 the fol-
24 lowing new item:

1 “Commissioner, Social Security Administra-
2 tion.”;

3 (2) by adding at the end of section 5313 the fol-
4 lowing new item:

5 “Deputy Commissioner, Social Security Admin-
6 istration.”; and

7 (3) by striking “Secretary of Health Education,
8 and Welfare” each place it appears in section 8141
9 and inserting “Commissioner of Social Security”.

10 (g) AMENDMENTS TO FOOD STAMP ACT OF 1977.—(1)
11 Sections 6(c)(3) and 8(e)(6) of the Food Stamp Act of 1977
12 (7 U.S.C. 2015(c)(3) and 2017(e)(6)) are each amended by
13 inserting “the Commissioner of Social Security and” before
14 “the Secretary of Health and Human Services”.

15 (2) Sections 6(g), 11(j), and 16(e) of such Act (7
16 U.S.C. 2015(g), 2020(j), and 2025(e)) are each amended by
17 striking “Secretary of Health and Human Services” each
18 place it appears and inserting “Commissioner of Social Se-
19 curity”.

20 (3) Section 11(i) of such Act (7 U.S.C. 2020(i)) is
21 amended by adding “, the Commissioner of Social Secu-
22 rity” after “the Secretary”.

23 (h) AMENDMENT TO TITLE 14, UNITED STATES
24 CODE.—Section 707(e)(3) of title 14, United States Code,
25 is amended by striking “Secretary of Health and Human

1 *Services*” each place it appears and inserting “Commis-
2 *sioner of Social Security*”.

3 (i) *AMENDMENTS TO INTERNAL REVENUE CODE OF*
4 *1986.—(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A),*
5 *and (g)(2)(B) of section 1402 of the Internal Revenue Code*
6 *of 1986 (26 U.S.C. 1402) are amended by striking “Sec-*
7 *retary of Health and Human Services” each place it ap-*
8 *pears and inserting “Commissioner of Social Security”.*

9 (2) *Section 3121(b)(10)(B) of such Code (26 U.S.C.*
10 *3121(b)(10)(B)) is amended by striking “Secretary of*
11 *Health and Human Services” each place it appears and*
12 *inserting “Commissioner of Social Security”.*

13 (3) *Section 3127 of such Code (26 U.S.C. 3127) is*
14 *amended by striking “Secretary of Health and Human*
15 *Services” each place it appears and inserting “Commis-*
16 *sioner of Social Security”.*

17 (4) *Section 6050F(c)(1)(A) of such Code (26 U.S.C.*
18 *6050F(c)(1)(A)) is amended by striking “Secretary of*
19 *Health and Human Services” and inserting “Commissioner*
20 *of Social Security”.*

21 (5) *Subsections (d) and (f) of section 6057 of such Code*
22 *(26 U.S.C. 6057) are amended by striking “Secretary of*
23 *Health and Human Services” each place it appears and*
24 *inserting “Commissioner of Social Security”.*

1 (6) *Section 6103(l)(5) of such Code (26 U.S.C.*
2 *6103(l)(5)) is amended—*

3 (A) *by striking “Department of Health and*
4 *Human Services” and inserting “Social Security Ad-*
5 *ministration”; and*

6 (B) *by striking “Secretary of Health and*
7 *Human Services” and inserting “Commissioner of*
8 *Social Security”.*

9 (7) *Subsections (d)(3)(C) and (e) of section 6402 of*
10 *such Code (26 U.S.C. 6402) are amended by striking “Sec-*
11 *retary of Health and Human Services” each place it ap-*
12 *pears and inserting “Commissioner of Social Security”.*

13 (8) *Section 6511(d)(5) of such Code (26 U.S.C.*
14 *6511(d)(5)) is amended by striking “Secretary of Health*
15 *and Human Services” and inserting “Commissioner of So-*
16 *cial Security”.*

17 (j) *AMENDMENTS TO TITLE 31, UNITED STATES*
18 *CODE.—Section 3720A(f) of title 31, United States Code,*
19 *is amended by striking “Secretary of Health and Human*
20 *Services” each place it appears in and inserting “Commis-*
21 *sioner of Social Security”.*

22 (k) *AMENDMENTS TO TITLE 38, UNITED STATES*
23 *CODE.—Section 5105 of title 38, United States Code, is*
24 *amended—*

1 (1) by striking “Secretary of Health and Human
2 Services” each place it appears and inserting “Com-
3 missioner of Social Security”; and

4 (2) by striking the second sentence of subsection
5 (b) and inserting the following new sentence: “A copy
6 of each such application filed with either the Sec-
7 retary or the Commissioner, together with any addi-
8 tional information and supporting documents (or cer-
9 tifications thereof) which may have been received by
10 the Secretary or the Commissioner with such applica-
11 tion, and which may be needed by the other official
12 in connection therewith, shall be transmitted by the
13 Secretary or the Commissioner receiving the applica-
14 tion to the other official.”.

15 (1) AMENDMENTS TO INSPECTOR GENERAL ACT OF
16 1978.—The Inspector General Act of 1978 (5 U.S.C. App.)
17 is amended—

18 (1) in section 9(a)(1), by striking “and” at the
19 end of subparagraph (U), and by adding at the end
20 the following new subparagraph:

21 “(V) of the Social Security Administration,
22 the functions of the Inspector General of the De-
23 partment of Health and Human Services relat-
24 ing to the administration of the old-age, survi-
25 vors, and disability insurance program under

1 *title II of the Social Security Act and of the sup-*
2 *plemental security income program under title*
3 *XVI of such Act; and”;*

4 (2) *in section 11(1), by striking “or” after*
5 *“Commission” and inserting a semicolon, and by in-*
6 *serting after “Board;” the following: “or the Commis-*
7 *sioner of Social Security;”;* and

8 (3) *in section 11(2), by striking “or” after “In-*
9 *formation Agency,”* and by inserting after “Veterans’
10 *Administration” the following: “, or the Social Secu-*
11 *rity Administration;”.*

12 **SEC. 203. RULES OF CONSTRUCTION.**

13 (a) *REFERENCES TO THE DEPARTMENT OF HEALTH*
14 *AND HUMAN SERVICES.—Whenever any reference is made*
15 *in any provision of law (other than this Act or a provision*
16 *of law amended by this Act), regulation, rule, record, or*
17 *document to the Department of Health and Human Serv-*
18 *ices with respect to such Department’s functions under the*
19 *old-age, survivors, and disability insurance program under*
20 *title II of the Social Security Act or the supplemental secu-*
21 *rity income program under title XVI of such Act, such ref-*
22 *erence shall be considered a reference to the Social Security*
23 *Administration.*

24 (b) *REFERENCES TO THE SECRETARY OF HEALTH AND*
25 *HUMAN SERVICES.—Whenever any reference is made in*

1 any provision of law (other than this Act or a provision
2 of law amended by this Act), regulation, rule, record, or
3 document to the Secretary of Health and Human Services
4 with respect to such Secretary's functions under the old-
5 age, survivors, and disability insurance program under
6 title II of the Social Security Act or the supplemental secu-
7 rity income program under title XVI of such Act, such ref-
8 erence shall be considered a reference to the Commissioner
9 of Social Security.

10 (c) *REFERENCES TO OTHER OFFICERS AND EMPLOY-*
11 *EES.*—Whenever any reference is made in any provision of
12 law (other than this Act or a provision of law amended
13 by this Act), regulation, rule, record, or document to any
14 other officer or employee of the Department of Health and
15 Human Services with respect to such officer or employee's
16 functions under the old-age, survivors, and disability insur-
17 ance program under title II of the Social Security Act or
18 the supplemental security income program under title XVI
19 of such Act, such reference shall be considered a reference
20 to the appropriate officer or employee of the Social Security
21 Administration.

22 **SEC. 204. EFFECTIVE DATES.**

23 (a) *IN GENERAL.*—Except as provided in subsection
24 (b), the provisions of this title shall take effect on the date
25 established pursuant to section 107(a).

1 (b) *EXCEPTIONS.*—Subsections (f)(1), (f)(2), and (l) of
2 section 202 shall take effect on the date of the enactment
3 of this title.

4 **TITLE III—SOCIAL SECURITY**
5 **DISABILITY AND REHABILITA-**
6 **TION**

7 **SEC. 301. SHORT TITLE.**

8 This title may be cited as the “Social Security Disabil-
9 ity and Rehabilitation Act of 1994”.

10 **SEC. 302. REFORM OF MONTHLY INSURANCE BENEFITS**

11 **BASED ON DISABILITY INVOLVING SUB-**
12 **STANCE ABUSE.**

13 (a) *SOCIAL SECURITY DISABILITY INSURANCE.*—

14 (1) *IN GENERAL.*—Section 223 of the Social Se-
15 curity Act (42 U.S.C. 423) is amended by adding at
16 the end the following new subsection:

17 “Limitation on Payment of Benefits by Reason of
18 Substance Abuse

19 “(j)(1)(A) Notwithstanding any other provision of this
20 title, no individual whose disability is based in whole or
21 in part on a medical determination that the individual is
22 a drug addict or alcoholic shall be entitled to benefits under
23 this title based on such disability with respect to any
24 month, unless such individual—

1 “(i) is undergoing, or on a waiting list for, any
2 medical or psychological treatment that may be ap-
3 propriate for such individual’s condition as a drug
4 addict or alcoholic (as the case may be) and for the
5 stage of such individual’s rehabilitation at an institu-
6 tion or facility approved for purposes of this para-
7 graph by the Secretary (so long as access to such
8 treatment is reasonably available, as determined by
9 the Secretary), and

10 “(ii) demonstrates in such manner as the Sec-
11 retary requires, including at a continuing disability
12 review not later than one year after such determina-
13 tion, that such individual is complying with the
14 terms, conditions, and requirements of such treatment
15 and with the requirements imposed by the Secretary
16 under subparagraph (B).

17 “(B) The Secretary shall provide for the monitoring
18 and testing of all individuals who are receiving benefits
19 under this title and who as a condition of such benefits are
20 required to be undergoing treatment and complying with
21 the terms, conditions, and requirements thereof as described
22 in subparagraph (A), in order to assure such compliance
23 and to determine the extent to which the imposition of such
24 requirements is contributing to the achievement of the pur-
25 poses of this title. The Secretary may retain jurisdiction

1 *in the case of a hearing before the Secretary under this title*
2 *to the extent the Secretary determines necessary to carry*
3 *out the preceding sentence. The Secretary shall annually*
4 *submit to the Congress a full and complete report on the*
5 *Secretary's activities under this paragraph.*

6 “(C) *The representative payee and the referral and*
7 *monitoring agency for any individual described in sub-*
8 *paragraph (A) shall report to the Secretary any noncompli-*
9 *ance with the terms, conditions, and requirements of the*
10 *treatment described in subparagraph (A) and with the re-*
11 *quirements imposed by the Secretary under subparagraph*
12 *(B).*

13 “(D)(i) *If the Secretary finds that an individual is*
14 *not complying with the terms, conditions, and requirements*
15 *of the treatment described in subparagraph (A), or with the*
16 *requirements imposed by the Secretary under subparagraph*
17 *(B), or both, the Secretary, in lieu of termination, may sus-*
18 *pend such individual's benefits under this title until com-*
19 *pliance has been reestablished, including compliance with*
20 *any additional requirements determined to be necessary by*
21 *the Secretary.*

22 “(ii) *Any period of suspension under clause (i) shall*
23 *be taken into account in determining any 24-month period*
24 *described in subparagraph (E) and shall not be taken into*

1 *account in determining the 36-month period described in*
2 *such subparagraph.*

3 “(E)(i) *Except as provided in clause (ii), no individ-*
4 *ual described in subparagraph (A) shall be entitled to bene-*
5 *fits under this title for any month following the 24-month*
6 *period beginning with the determination of the disability*
7 *described in such subparagraph.*

8 “(ii) *If at the end of the 24-month period described*
9 *in clause (i), the individual furnishes evidence in accord-*
10 *ance with subsection (d)(5) that the individual continues*
11 *to be under a disability based in whole or in part on a*
12 *medical determination that the individual is a drug addict*
13 *or alcoholic, such individual shall continue to be entitled*
14 *to benefits under this title based on such disability.*

15 “(iii) *Subject to clause (iv), if such an individual con-*
16 *tinues to be entitled to such benefits for an additional 24-*
17 *month period following a determination under clause (ii),*
18 *clauses (i) and (ii) shall apply with regard to any further*
19 *entitlement to such benefits following the end of such addi-*
20 *tional period.*

21 “(iv) *In no event shall such an individual be entitled*
22 *to benefits under this title for more than a total of 36*
23 *months, unless upon the termination of the 36th month such*
24 *individual furnishes evidence in accordance with subsection*
25 *(d)(5) that the individual is under a disability which is*

1 *not related in part to a medical determination that the in-*
2 *dividual is a drug addict or alcoholic.*

3 “(2)(A) *Any benefits under this title payable to any*
4 *individual referred to in paragraph (1), including any ben-*
5 *efits payable in a lump sum amount, shall be payable only*
6 *pursuant to a certification of such payment to a qualified*
7 *organization acting as a representative payee of such indi-*
8 *vidual pursuant to section 205(j).*

9 “(B) *For purposes of subparagraph (A) and section*
10 *205(j)(4), the term ‘qualified organization’—*

11 “(i) *shall have the meaning given such term by*
12 *section 205(j)(4)(B), and*

13 “(ii) *shall mean an agency or instrumentality of*
14 *a State or a political subdivision of a State.*

15 “(3) *Monthly insurance benefits under this title which*
16 *would be payable to any individual (other than the disabled*
17 *individual to whom benefits are not payable by reason of*
18 *this subsection) on the basis of the wages and self-employ-*
19 *ment income of such a disabled individual but for the provi-*
20 *sions of paragraph (1), shall be payable as though such dis-*
21 *abled individual were receiving such benefits which are not*
22 *payable under this subsection.”*

23 (2) *CONFORMING AMENDMENTS.—*

24 (A) *Section 205(j)(1) of such Act (42 U.S.C.*
25 *405(j)(1)) is amended by inserting ’’, or in the*

1 *case of any individual referred to in section*
2 *223(j)(1)(A)” after “thereby”.*

3 *(B) Section 205(j)(2)(D)(ii)(II) of such Act*
4 *(42 U.S.C. 405(j)(2)(D)(ii)(II)) is amended by*
5 *striking “legally incompetent or under the age of*
6 *15” and inserting “legally incompetent, under*
7 *the age of 15, or a drug addict or alcoholic re-*
8 *ferred to in section 223(j)(1)(A)”.*

9 *(b) SUPPLEMENTAL SECURITY INCOME.—Paragraph*
10 *(3) of section 1611(e) of the Social Security Act (42 U.S.C.*
11 *1382(e)) is amended to read as follows:*

12 *“(3)(A)(i) No person who is an aged, blind, or disabled*
13 *individual solely by reason of disability (as determined*
14 *under section 1614(a)(3)) shall be an eligible individual or*
15 *eligible spouse for purposes of this title with respect to any*
16 *month if such individual’s disability is based in whole or*
17 *in part on a medical determination that the individual is*
18 *a drug addict or alcoholic, unless such individual—*

19 *“(I) is undergoing, or on a waiting list for, any*
20 *medical or psychological treatment that may be ap-*
21 *propriate for such individual’s condition as a drug*
22 *addict or alcoholic (as the case may be) and for the*
23 *stage of such individual’s rehabilitation at an institu-*
24 *tion or facility approved for purposes of this para-*
25 *graph by the Secretary (so long as access to such*

1 *treatment is reasonably available, as determined by*
2 *the Secretary), and*

3 *“(II) demonstrates in such manner as the Sec-*
4 *retary requires, including at a continuing disability*
5 *review not later than one year after such determina-*
6 *tion, that such individual is complying with the*
7 *terms, conditions, and requirements of such treatment*
8 *and with the requirements imposed by the Secretary*
9 *under clause (ii).*

10 *“(ii) The Secretary shall provide for the monitoring*
11 *and testing of all individuals who are receiving benefits*
12 *under this title and who as a condition of such benefits are*
13 *required to be undergoing treatment and complying with*
14 *the terms, conditions, and requirements thereof as described*
15 *in clause (i), in order to assure such compliance and to*
16 *determine the extent to which the imposition of such re-*
17 *quirements is contributing to the achievement of the pur-*
18 *poses of this title. The Secretary may retain jurisdiction*
19 *in the case of a hearing before the Secretary under this title*
20 *to the extent the Secretary determines necessary to carry*
21 *out the preceding sentence. The Secretary shall annually*
22 *submit to the Congress a full and complete report on the*
23 *Secretary’s activities under this subparagraph.*

24 *“(iii) The representative payee and the referral and*
25 *monitoring agency for any individual described in clause*

1 *(i) shall report to the Secretary any noncompliance with*
2 *the terms, conditions, and requirements of the treatment de-*
3 *scribed in clause (i) and with the requirements imposed by*
4 *the Secretary under clause (ii).*

5 *“(iv)(I) If the Secretary finds that an individual is*
6 *not complying with the terms, conditions, and requirements*
7 *of the treatment described in clause (i), or with the require-*
8 *ments imposed by the Secretary under clause (ii), or both,*
9 *the Secretary, in lieu of termination, may suspend such in-*
10 *dividual’s benefits under this title until compliance has*
11 *been reestablished, including compliance with any addi-*
12 *tional requirements determined to be necessary by the Sec-*
13 *retary.*

14 *“(II) Any period of suspension under subclause (I)*
15 *shall be taken into account in determining any 24-month*
16 *period described in clause (v) and shall not be taken into*
17 *account in determining the 36-month period described in*
18 *such clause.*

19 *“(v)(I) Except as provided in subclause (II), no indi-*
20 *vidual described in clause (i) shall be entitled to benefits*
21 *under this title for any month following the 24-month pe-*
22 *riod beginning with the determination of the disability de-*
23 *scribed in such clause.*

24 *“(II) If at the end of the 24-month period described*
25 *in subclause (I), the individual furnishes evidence in ac-*

1 *cordance with section 223(d)(5) that the individual contin-*
2 *ues to be under a disability based in whole on a medical*
3 *determination that the individual is a drug addict or alco-*
4 *holic, such individual shall be entitled to benefits under this*
5 *title based on such disability for no more than an addi-*
6 *tional 36 months.*

7 *“(III) Subject to subclause (IV), if such an individual*
8 *continues to be entitled to such benefits for an additional*
9 *24-month period following a determination under subclause*
10 *(II), subclauses (I) and (II) shall apply with regard to any*
11 *further entitlement to such benefits following the end of such*
12 *additional period.*

13 *“(IV) In no event shall such an individual be entitled*
14 *to benefits under this title for more than a total of 36*
15 *months, unless upon the termination of the 36th month such*
16 *individual furnishes evidence in accordance with section*
17 *223(d)(5) that the individual is under a disability which*
18 *is not related in part to a medical determination that the*
19 *individual is a drug addict or alcoholic.*

20 *“(B)(i) Any benefits under this title payable to any*
21 *individual referred to in subparagraph (A), including any*
22 *benefits payable in a lump sum amount, shall be payable*
23 *only pursuant to a certification of such payment to a quali-*
24 *fied organization acting as a representative payee of such*
25 *individual pursuant to section 1631(a)(2)(A)(ii).*

1 “(ii) For purposes of clause (i) and section
2 1631(a)(2)(D), the term ‘qualified organization’—

3 “(I) shall have the meaning given such term by
4 section 1631(a)(2)(D)(ii), and

5 “(II) shall mean an agency or instrumentality of
6 a State or a political subdivision of a State.”

7 (c) *EFFECTIVE DATES; AUTHORIZATIONS.*—

8 (1) *IN GENERAL.*—Except as provided in para-
9 graph (2), the amendments made by this section shall
10 apply to benefits payable for determinations of dis-
11 ability made 90 or more days after the date of the en-
12 actment of this Act.

13 (2) *CURRENT DETERMINATIONS.*—

14 (A) *IN GENERAL.*—With respect to any in-
15 dividual described in subparagraph (B), the Sec-
16 retary of Health and Human Services shall pro-
17 vide during the 3-year period beginning after the
18 date of the enactment of this Act for the applica-
19 tion of the amendments made by this section to
20 such individual with the time periods described
21 in such amendments to begin upon such applica-
22 tion.

23 (B) *INDIVIDUAL DESCRIBED.*—An individ-
24 ual is described in this subparagraph if such in-
25 dividual is entitled to benefits under title II or

1 *XVI of the Social Security Act based on a dis-*
2 *ability determined before the date described in*
3 *paragraph (1) to be based in whole or in part*
4 *on a medical determination that the individual*
5 *is a drug addict or alcoholic.*

6 (3) *AUTHORIZATION OF APPROPRIATIONS.—*
7 *There are authorized to be appropriated such sums as*
8 *may be necessary to carry out the purposes of the pro-*
9 *visions of, and the amendments made by, this section.*

10 **SEC. 303. PRIORITY OF TREATMENT.**

11 *The Secretary of Health and Human Services, through*
12 *the Administrator of the Substance Abuse and Mental*
13 *Health Services Administration, shall assure that every in-*
14 *dividual receiving disability benefits under title II or XVI*
15 *of the Social Security Act based in whole or in part on*
16 *a medical determination that the individual is a drug ad-*
17 *dict or alcoholic be given high priority for treatment*
18 *through entities supported by the various States through*
19 *any substance abuse block grant authorized under law.*

20 **SEC. 304. ESTABLISHMENT OF REFERRAL MONITORING**
21 **AGENCIES REQUIRED IN ALL STATES.**

22 *The Secretary of Health and Human Services shall,*
23 *within 1 year of the date of the enactment of this Act, pro-*
24 *vide for the establishment of referral and monitoring agen-*
25 *cies for each State for the purpose of carrying out the treat-*

1 ment requirements under sections 223(j)(1) and
2 1611(e)(3)(A) of the Social Security Act (42 U.S.C.
3 423(j)(1) and 1382(e)(3)(A)).

4 **SEC. 305. PROCEEDS FROM CERTAIN CRIMINAL ACTIVITIES**
5 **CONSTITUTE SUBSTANTIAL GAINFUL EM-**
6 **PLOYMENT.**

7 (a) *SOCIAL SECURITY DISABILITY INSURANCE.*—Sec-
8 tion 223(d)(4) of the Social Security Act (42 U.S.C.
9 423(d)(4)) is amended by inserting the following after the
10 first sentence: “If an individual engages in a criminal ac-
11 tivity to support substance abuse, any proceeds derived
12 from such activity shall demonstrate such individual’s abil-
13 ity to engage in substantial gainful activity.”.

14 (b) *SUPPLEMENTAL SECURITY INCOME.*—Section
15 1614(a)(3)(D) of the Social Security Act (42 U.S.C.
16 1382(a)(3)(D)) is amended by inserting the following after
17 the first sentence: “If an individual engages in a criminal
18 activity to support substance abuse, any proceeds derived
19 from such activity shall demonstrate such individual’s abil-
20 ity to engage in substantial gainful activity.”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to disability determinations conducted
23 on or after the date of the enactment of this Act.

1 **SEC. 306. CONSISTENT PENALTY PROVISIONS FOR SSDI**
2 **AND SSI PROGRAMS.**

3 (a) *FELONY PENALTIES FOR FRAUD.*—

4 (1) *IN GENERAL.*—Subsection (a) of section 1631
5 of the Social Security Act (42 U.S.C. 1383a) is
6 amended by striking “shall be guilty of a mis-
7 demeanor and upon conviction thereof shall be fined
8 not more than \$1,000 or imprisoned for not more
9 than one year, or both” and inserting “shall be guilty
10 of a felony and upon conviction thereof shall be fined
11 under title 18, United States Code, or imprisoned for
12 not more than five years, or both”.

13 (2) *REPRESENTATIVE PAYEES.*—

14 (A) *SSDI.*—Subsections (b) and (c) of sec-
15 tion 208 of such Act (42 U.S.C. 408) are amend-
16 ed to read as follows:

17 “(b)(1) Any person or other entity who is convicted
18 of a violation of any of the provisions of this section, if
19 such violation is committed by such person or entity in his
20 role as, or in applying to become, a certified payee under
21 section 205(j) on behalf of another individual (other than
22 such person’s spouse or an entity described in section
23 223(j)(2)(B)(ii)), shall be guilty of a felony and upon con-
24 viction thereof shall be fined under title 18, United States
25 Code, or imprisoned for not more than five years, or both.

1 “(2) In any case in which the court determines that
2 a violation described in paragraph (1) includes a willful
3 misuse of funds by such person or entity, the court may
4 also require that full or partial restitution of such funds
5 be made to the individual for whom such person or entity
6 was the certified payee.

7 “(3) Any person or entity convicted of a felony under
8 this section or under section 1632(b) may not be certified
9 as a payee under section 205(j).

10 “(c) For the purpose of subsection (a)(7), the terms ‘so-
11 cial security number’ and ‘social security account number’
12 mean such numbers as are assigned by the Secretary under
13 section 205(c)(2) whether or not, in actual use, such num-
14 bers are called social security numbers.”

15 (B) SSI.—Subsection (b)(1) of section 1632
16 of such Act (42 U.S.C. 1383a) is amended by
17 striking “(other than such person’s spouse)” and
18 all that follows through the period and inserting
19 “(other than such person’s spouse or an entity
20 described in section 1611(e)(3)(B)(ii)(II)), shall
21 be guilty of a felony and upon conviction thereof
22 shall be fined under title 18, United States Code,
23 or imprisoned for not more than five years, or
24 both.”

25 (b) CIVIL ADMINISTRATIVE PENALTIES.—

1 (1) *SSDI.—Section 208 of the Social Security*
2 *Act (42 U.S.C. 408) is amended by adding at the end*
3 *the following new subsections:*

4 “(e) *For administrative penalties for false claims and*
5 *statements with respect to which an individual or other en-*
6 *tity knows or has reason to know such falsity, see chapter*
7 *38 of title 31, United States Code.*

8 “(f) *In the case of the second or subsequent imposition*
9 *of an administrative or criminal penalty on any person*
10 *or other entity under this section, the Secretary may exclude*
11 *such person or entity from participation in any program*
12 *under this title and titles V, XVI, XVIII, and XX, and may*
13 *direct that such person or entity be excluded from any State*
14 *health care program (as defined in section 1128(h)) and*
15 *any other Federal program as provided by law.”*

16 (2) *SSI.—*

17 (A) *IN GENERAL.—Section 1632 of such Act*
18 *(42 U.S.C. 1383a) is amended by adding at the*
19 *end the following new subsections:*

20 “(c) *For administrative penalties for false claims and*
21 *statements with respect to which an individual or other en-*
22 *tity knows or has reason to know such falsity, see chapter*
23 *38 of title 31, United States Code.*

24 “(d) *In the case of the second or subsequent imposition*
25 *of an administrative or criminal penalty on any person*

1 *or other entity under this section, the Secretary may exclude*
2 *such person or entity from participation in any program*
3 *under this title and titles II, V, XVIII, and XX, and may*
4 *direct that such person or entity be excluded from any State*
5 *health care program (as defined in section 1128(h)) and*
6 *any other Federal program as provided by law.”*

7 *(B) CONFORMING AMENDMENT.—The head-*
8 *ing for section 1632 of such Act (42 U.S.C.*
9 *1383a) is amended by striking “FOR FRAUD”.*

10 *(c) EFFECTIVE DATE.—The amendments made by this*
11 *section shall be effective on or after the date of the enactment*
12 *of this Act.*

Attest:

Secretary.

HR 4277 EAS—2

HR 4277 EAS—3

HR 4277 EAS—4

HR 4277 EAS—5