

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To improve the Social Security Disability Insurance program by enhancing program integrity and reforming the disability adjudication process.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.**

**H. R. 1314**

To provide a bipartisan budget agreement, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LANKFORD

Viz:

1 Strike title VIII and insert the following:

2 **TITLE VIII—SOCIAL SECURITY**

3 **Subtitle A—Protecting the**

4 **Disability Insurance Trust Fund**

5 **SEC. 801. UPDATE AND ADJUSTMENT OF THE SOCIAL SECU-**

6 **RITY DISABILITY INSURANCE MEDICAL-VO-**

7 **CATIONAL GUIDELINES.**

8 (a) IN GENERAL.—

9 (1) AGE CRITERIA.—Notwithstanding appendix

10 2 to subpart P of part 404 of title 20, Code of Fed-

11 eral Regulations, with respect to disability deter-

1       minations or reviews made on or after the date that  
2       is 1 year after the date of the enactment of this Act,  
3       age shall not be considered as a vocational factor for  
4       any individual who has not attained the age that is  
5       12 years less than the retirement age for such indi-  
6       vidual (as defined in section 216(l)(1) of the Social  
7       Security Act (42 U.S.C. 416(l)).

8               (2) WORK WHICH EXISTS IN THE NATIONAL  
9       ECONOMY.—With respect to disability determina-  
10      tions or reviews made on or after the date of the en-  
11      actment of this Act, in determining whether an indi-  
12      vidual is able to engage in any work which exists in  
13      the national economy (as defined in section  
14      223(d)(2)(A) of the Social Security Act (42 U.S.C.  
15      423(d)(2)(A)), the Commissioner of Social Security  
16      shall consider the share and ages of individuals cur-  
17      rently participating in the labor force and the num-  
18      ber and types of jobs available in the current econ-  
19      omy.

20              (b) UPDATING THE MEDICAL-VOCATIONAL GUIDE-  
21      LINES AND DATA ON WORK WHICH EXISTS IN NATIONAL  
22      ECONOMY.—

23              (1) IN GENERAL.—Subject to paragraph (2),  
24      not later than 2 years after the date of the enact-  
25      ment of this Act, and every 10 years thereafter, the

1 Commissioner of Social Security shall prescribe rules  
2 and regulations that update the medical-vocational  
3 guidelines, as set forth in appendix 2 to subpart P  
4 of part 404 of title 20, Code of Federal Regulations,  
5 used in disability determinations.

6 (2) JOBS IN THE NATIONAL ECONOMY.—Not  
7 later than 2 years after the date of the enactment  
8 of this Act, and every year thereafter, the Commis-  
9 sioner of Social Security shall update the data used  
10 by the Commissioner to determine the jobs which  
11 exist in the national economy to ensure that such  
12 data reflects the full range of work which exists in  
13 the national economy, including newly-created jobs  
14 in emerging industries.

15 **SEC. 802. MANDATORY COLLECTION OF NEGOTIATED CIVIL**  
16 **MONETARY PENALTIES.**

17 Section 1129(i)(2) of the Social Security Act (42  
18 U.S.C. 1320a–8(i)(2)) is amended by inserting “and shall  
19 delegate authority for collecting civil money penalties and  
20 assessments negotiated under this section to the Inspector  
21 General” before the period.

22 **SEC. 803. REQUIRED ELECTRONIC FILING OF WAGE WITH-**  
23 **HOLDING RETURNS.**

24 (a) IN GENERAL.—Paragraph (2) of section 6011(e)  
25 of the Internal Revenue Code of 1986 is amended—

1           (1) by redesignating subparagraphs (A) and  
2           (B) as subparagraphs (B) and (C), respectively,

3           (2) by inserting before subparagraph (B), as so  
4           redesignated, the following new subparagraph:

5                   “(A) shall—

6                           “(i) require any person that is re-  
7                           quired to file a return containing informa-  
8                           tion described in section 6051(a) to file  
9                           such return on magnetic media, and

10                           “(ii) provide for waiver of the require-  
11                           ments of clause (i) in the case of dem-  
12                           onstrated hardship for—

13                                   “(I) for any period before Janu-  
14                                   ary 1, 2020, a person having 25 or  
15                                   fewer employees, and

16                                   “(II) for any period after Decem-  
17                                   ber 31, 2019, a person having 5 or  
18                                   fewer employees,” and

19           (3) by inserting “except as provided in subpara-  
20           graph (A),” before “shall not require” in subpara-  
21           graph (B), as so redesignated.

22           (b) CONFORMING AMENDMENT.—Paragraph (4) of  
23           section 6011(e) of the Internal Revenue Code of 1986 is  
24           amended by striking “paragraph (2)(A)” and inserting  
25           “paragraph (2)(B)”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to returns filed after December 31,  
3 2016.

4 **SEC. 804. DISQUALIFICATION ON RECEIPT OF DISABILITY**  
5 **INSURANCE BENEFITS IN A MONTH FOR**  
6 **WHICH UNEMPLOYMENT COMPENSATION IS**  
7 **RECEIVED.**

8 (a) IN GENERAL.—Section 223(d)(4) of the Social  
9 Security Act (42 U.S.C. 423(d)(4)) is amended by adding  
10 at the end the following:

11 “(C)(i) If for any week in whole or in part within  
12 a month an individual is paid or determined to be eligible  
13 for unemployment compensation, such individual shall be  
14 deemed to have engaged in substantial gainful activity for  
15 such month.

16 “(ii) For purposes of clause (i), the term ‘unemploy-  
17 ment compensation’ means—

18 “(I) ‘regular compensation’, ‘extended com-  
19 pensation’, and ‘additional compensation’ (as such  
20 terms are defined by section 205 of the Federal-  
21 State Extended Unemployment Compensation Act  
22 (26 U.S.C. 3304 note)); and

23 “(II) trade adjustment assistance under title II  
24 of the Trade Act of 1974 (19 U.S.C. 2251 et  
25 seq.).”.

1 (b) TRIAL WORK PERIOD.—Section 222(c) of the So-  
2 cial Security Act (42 U.S.C. 422(c)) is amended by adding  
3 at the end the following:

4 “(6)(A) For purposes of this subsection, an individual  
5 shall be deemed to have rendered services in a month if  
6 the individual is entitled to unemployment compensation  
7 for such month.

8 “(B) For purposes of subparagraph (A), the term  
9 ‘unemployment compensation’ means—

10 “(i) ‘regular compensation’, ‘extended com-  
11 pensation’, and ‘additional compensation’ (as such  
12 terms are defined by section 205 of the Federal-  
13 State Extended Unemployment Compensation Act  
14 (26 U.S.C. 3304 note)); and

15 “(ii) trade adjustment assistance under title II  
16 of the Trade Act of 1974 (19 U.S.C. 2251 et  
17 seq.).”.

18 (c) DATA MATCHING.—The Commissioner of Social  
19 Security shall implement the amendments made by this  
20 section using appropriate electronic data.

21 (d) EFFECTIVE DATE.—The amendments made by  
22 this section shall apply with respect to individuals who ini-  
23 tially apply for disability insurance benefits on or after  
24 January 1, 2016.

1 **SEC. 805. STUDY AND REPORT ON CONSULTATIVE EXAM-**  
2 **INATION FEES.**

3 Not later than 2 years after the date of the enact-  
4 ment of this Act, the Inspector General of the Social Secu-  
5 rity Administration shall submit a report to the Commit-  
6 tees on Finance and Homeland Security and Government  
7 Affairs of the Senate and the Committees on Ways and  
8 Means and Oversight and Government Reform of the  
9 House of Representatives on fees paid by Disability Deter-  
10 mination Services agencies to medical providers for con-  
11 sultative examinations, including—

12 (1) the average rate paid by the Disability De-  
13 termination Services agencies in each State for such  
14 examinations;

15 (2) a comparison between the rates described in  
16 paragraph (1) and the highest rates paid by Federal  
17 agencies and other agencies in each State for similar  
18 services; and

19 (3) the number of cases in which a Disability  
20 Determination Services agency ordered a consult-  
21 ative examination which resulted in an initial denial  
22 of disability insurance benefits and a subsequent ap-  
23 peal.

24 **SEC. 806. REALLOCATION OF PAYROLL TAX REVENUE.**

25 (a) WAGES.—Section 201(b)(1) of the Social Security  
26 Act (42 U.S.C. 401(b)(1)) is amended by striking “and

1 (R) 1.80 per centum of the wages (as so defined) paid  
2 after December 31, 1999, and so reported,” and inserting  
3 “(R) 1.80 per centum of the wages (as so defined) paid  
4 after December 31, 1999, and before January 1, 2016,  
5 and so reported, (S) 2.37 per centum of the wages (as  
6 so defined) paid after December 31, 2015, and before Jan-  
7 uary 1, 2019, and so reported, and (T) 1.80 per centum  
8 of the wages (as so defined) paid after December 31,  
9 2018, and so reported,”.

10 (b) SELF-EMPLOYMENT INCOME.—Section 201(b)(2)  
11 of such Act (42 U.S.C. 401(b)(2)) is amended by striking  
12 “and (R) 1.80 per centum of the amount of self-employ-  
13 ment income (as so defined) so reported for any taxable  
14 year beginning after December 31, 1999” and inserting  
15 “(R) 1.80 per centum of the amount of self-employment  
16 income (as so defined) so reported for any taxable year  
17 beginning after December 31, 1999, and before January  
18 1, 2016, (S) 2.37 per centum of the amount of self-em-  
19 ployment income (as so defined) so reported for any tax-  
20 able year beginning after December 31, 2015, and before  
21 January 1, 2019, and (T) 1.80 per centum of the amount  
22 of self-employment income (as so defined) so reported for  
23 any taxable year beginning after December 31, 2018”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply with respect to wages paid after



1 December 31, 2015, and self-employment income for tax-  
2 able years beginning after such date.

### 3 **Subtitle B—Program Integrity**

#### 4 **SEC. 811. PROVIDING FOR AN EXPEDITED ADJUDICATION** 5 **PROCESS.**

6 (a) IN GENERAL.—Section 205(b) of the Social Secu-  
7 rity Act (42 U.S.C. 405(b)) is amended—

8 (1) in paragraph (2), by striking “In any” and  
9 inserting “Subject to paragraph (4), in any”; and

10 (2) by adding at the end the following:

11 “(4) Any review of an initial adverse determination  
12 with respect to an application for disability insurance ben-  
13 efits under section 223 or for monthly benefits under sec-  
14 tion 202 by reason of being under a disability shall only  
15 be made before an administrative law judge in a hearing  
16 under paragraph (1).”.

17 (b) REVIEW BY FEDERAL COURTS.—It is the sense  
18 of Congress that, in reviewing disability determinations,  
19 the Federal courts shall make their rulings based solely  
20 on the determination made by the administrative law  
21 judge of the Social Security Administration and rely solely  
22 on the evidence that was considered by such judge during  
23 the initial hearing.

24 (c) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply to initial adverse determinations

1 on applications for disability insurance benefits under title  
2 II of the Social Security Act made after the date of the  
3 enactment of this Act.

4 **SEC. 812. DEADLINE FOR SUBMISSION OF MEDICAL EVI-**  
5 **DENCE; EXCLUSION OF CERTAIN MEDICAL**  
6 **EVIDENCE.**

7 (a) CLOSING OF RECORD FOR SUBMISSION OF MED-  
8 ICAL EVIDENCE.—Section 205(b)(1) of the Social Secu-  
9 rity Act (42 U.S.C. 405(b)(1)) is amended—

10 (1) by striking “The Commissioner of Social  
11 Security is directed” and inserting—

12 “(A) The Commissioner of Social Security is di-  
13 rected”; and

14 (2) by adding at the end the following new sub-  
15 paragraph:

16 “(B)(i) Notwithstanding the last sentence of  
17 subparagraph (A), in the case of a hearing before an  
18 administrative law judge to determine if an indi-  
19 vidual is under a disability (as defined in section  
20 223(d)) or a review of such a determination before  
21 the Appeals Council of the Office of Appellate Oper-  
22 ations of the Social Security Administration, medical  
23 evidence (other than the evidence already in the  
24 record) shall not be received if the evidence is sub-  
25 mitted less than 30 days prior to the date on which

1 the hearing is held unless the individual can show  
2 that the evidence is material and there is good cause  
3 for the failure to submit it before the deadline, but  
4 in no case shall medical evidence be received if it  
5 is—

6 “(I) based on information obtained during  
7 the period that begins after a determination is  
8 made by an administrative law judge; or

9 “(II) submitted more than 1 year after a  
10 determination is made by an administrative law  
11 judge.

12 “(ii) At the request of an individual applying  
13 for benefits under this title or such individual’s rep-  
14 resentative, and for the purpose of completing the  
15 record, an administrative law judge may postpone a  
16 hearing to determine if the individual is under a dis-  
17 ability (as so defined) to a date that is no more than  
18 30 days after the date for which the hearing was  
19 originally scheduled if—

20 “(I) the request is made no less than 7  
21 days prior to the date for which the hearing  
22 was originally scheduled; and

23 “(II) the party making the request shows  
24 good cause for why the hearing should be post-  
25 poned.”.

1 (b) EXCLUSION OF MEDICAL EVIDENCE THAT IS  
2 NOT SUBMITTED IN ITS ENTIRETY OR FURNISHED BY A  
3 LICENSED PRACTITIONER.—Section 223(d)(5) of the So-  
4 cial Security Act (42 U.S.C. 423(d)(5)) is amended—

5 (1) in subparagraph (B), by striking “In” and  
6 inserting “Subject to subparagraphs (C) and (D),  
7 in”; and

8 (2) by adding at the end the following new sub-  
9 paragraphs:

10 “(C)(i) An individual and, if applicable, such in-  
11 dividual’s representative shall submit, in its entirety  
12 and without redaction, all relevant medical evidence  
13 known to the individual or the representative to the  
14 Commissioner of Social Security.

15 “(ii) In the case of a hearing before an adminis-  
16 trative law judge to determine if an individual is  
17 under a disability (as defined in paragraph (1)), the  
18 Commissioner of Social Security shall not consider  
19 any piece of medical evidence furnished by an indi-  
20 vidual or such individual’s representative unless such  
21 individual and, if applicable, such individual’s rep-  
22 resentative, certifies at the hearing that all relevant  
23 medical evidence has been submitted in its entirety  
24 and without redaction.

1           “(iii) For purposes of this subparagraph, the  
2 term ‘relevant medical evidence’ means any medical  
3 evidence relating to the individual’s claimed physical  
4 or mental impairments that the Commissioner of So-  
5 cial Security should consider to determine whether  
6 the individual is under a disability, regardless of  
7 whether such evidence is favorable or unfavorable to  
8 the individual’s case, but shall not include any oral  
9 or written communication or other document ex-  
10 changed between the individual and such individual’s  
11 attorney representative that are subject to attorney-  
12 client privilege or work product doctrine, unless the  
13 individual voluntarily discloses such communication  
14 to the Commissioner. Neither the attorney-client  
15 privilege nor the work product doctrine shall prevent  
16 from disclosure medical evidence, medical source  
17 opinions, or any other factual matter that the Com-  
18 missioner may consider in determining whether or  
19 not the individual is entitled to benefits.

20           “(iv) Any individual or representative who  
21 knowingly violates this subparagraph shall be guilty  
22 of making a false statement or representation of ma-  
23 terial fact, shall be subject to civil and criminal pen-  
24 alties under sections 208 and 1129, and, in the case  
25 of a representative, shall be suspended or disquali-

1       fied from appearing before the Social Security Ad-  
2       ministration.

3               “(D) The Commissioner of Social Security shall  
4       not consider any evidence furnished by a physician  
5       or health care practitioner who is not licensed, has  
6       been sanctioned, or is under investigation for ethical  
7       misconduct.”.

8       (c) EFFECTIVE DATE.—The amendments made by  
9       this section shall take effect on the date of the enactment  
10      of this Act, and shall apply to applications for disability  
11      insurance benefits filed on or after that date.

12      **SEC. 813. PROCEDURAL RULES FOR HEARINGS.**

13       (a) IN GENERAL.—Not later than 1 year after the  
14      date of the enactment of this Act, the Commissioner of  
15      Social Security, in consultation with the administrative  
16      law judges of the Social Security Administration, shall es-  
17      tablish and make available to the public procedural rules  
18      for hearings to determine whether or not an individual is  
19      entitled to disability insurance benefits under title II of  
20      the Social Security Act (42 U.S.C. 401 et seq.). These  
21      rules shall include those established in this Act as well  
22      as—

23               (1) rules and procedures for motions and re-  
24      quests;

1           (2) rules related to the representation of indi-  
2           viduals in such a hearing, such as the qualifications  
3           and standards of conduct required of representa-  
4           tives;

5           (3) rules and procedures for the submission of  
6           evidence;

7           (4) rules related to the closure of the record;  
8           and

9           (5) rules and procedures for imposing sanctions  
10          on parties for failing to comply with hearing rules.

11          (b) **AUTHORITY OF ADMINISTRATIVE LAW JUDGES**  
12 **TO SANCTION CLAIMANT REPRESENTATIVES.**—Section  
13 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1))  
14 is amended by inserting after the fifth sentence the fol-  
15 lowing: “The Commissioner of Social Security shall estab-  
16 lish rules under which an administrative law judge may  
17 impose fines and other sanctions the Commissioner deter-  
18 mines to be appropriate on a representative for failure to  
19 follow the Commissioner’s rules and regulations.”

20          (c) **EFFECTIVE DATE.**—Any rules adopted pursuant  
21 to this section or the amendment made thereby shall take  
22 effect on the date that is 6 months after the date of their  
23 publication and shall apply to hearings held on or after  
24 that date.

1 **SEC. 814. PROHIBITING ATTORNEYS WHO HAVE RELIN-**  
2 **QUISHED A LICENSE TO PRACTICE IN THE**  
3 **FACE OF AN ETHICS INVESTIGATION FROM**  
4 **SERVING AS A CLAIMANT REPRESENTATIVE.**

5 Section 206(a)(1) of the Social Security Act (42  
6 U.S.C. 406(a)(1)), as amended by section 813(b), is fur-  
7 ther amended—

8 (1) in the first sentence, by inserting “, and, in  
9 cases where compensation is sought for services as  
10 a representative, shall” before “prescribe”;

11 (2) in the second sentence, by striking “Federal  
12 courts,” and inserting “Federal courts and certifies  
13 to the Commissioner that such attorney has never  
14 (A) been disbarred or suspended from any court or  
15 bar to which such attorney was previously admitted  
16 to practice or disqualified from participating in or  
17 appearing before any Federal program or agency, or  
18 (B) relinquished a license to practice in, participate  
19 in, or appear before any court, bar, or Federal pro-  
20 gram or agency in connection with a settlement of  
21 an investigation into ethical misconduct,”; and

22 (3) in the third sentence—

23 (A) by striking “may” each place it ap-  
24 pears and inserting “shall”;

25 (B) by striking “or who has been disquali-  
26 fied from participating in or appearing before



1 any Federal program or agency” and inserting  
2 “, who has been disqualified from participating  
3 in or appearing before any Federal program or  
4 agency, or who has voluntarily relinquished a li-  
5 cense to practice in, participate in, or appear  
6 before any court, bar, or Federal program or  
7 agency in settlement of an investigation into  
8 ethical misconduct”; and

9 (C) by inserting “or who has voluntarily  
10 relinquished a license to practice in any court  
11 or bar in settlement of an investigation into  
12 ethical misconduct” before the period.

13 **SEC. 815. APPLYING JUDICIAL CODE OF CONDUCT TO AD-**  
14 **MINISTRATIVE LAW JUDGES.**

15 (a) IN GENERAL.—Section 3105 of title 5, United  
16 States Code, is amended—

17 (1) by striking “Each agency” and inserting  
18 “(a) Each agency”; and

19 (2) by adding at the end the following:

20 “(b) The Code of Conduct for United States Judges  
21 adopted by the Judicial Conference of the United States  
22 shall apply to administrative law judges appointed under  
23 this section.

24 “(c) If, in applying a standard of conduct to an ad-  
25 ministrative law judge appointed under this section, there

1 is a conflict between the Code of Conduct for United  
2 States Judges and any other law or regulation, the stricter  
3 standard of conduct shall apply.

4 “(d) Pursuant to section 7301, the President may  
5 issue such regulations as may be necessary to carry out  
6 subsections (b) and (c).”.

7 (b) LIMITATION ON REGULATORY AUTHORITY.—Sec-  
8 tion 1305 of title 5, United States Code, is amended by  
9 striking “3105” and inserting “3105(a)”.

10 **SEC. 816. EVALUATING MEDICAL EVIDENCE.**

11 (a) IN GENERAL.—Not later than 1 year after the  
12 date of the enactment of this Act, the Commissioner of  
13 Social Security shall ensure that all administrative law  
14 judges within the Office of Disability Adjudication and Re-  
15 view of the Social Security Administration receive training  
16 on how to appropriately evaluate and weigh medical evi-  
17 dence provided by medical professionals.

18 (b) OPINION EVIDENCE.—Section 223(d)(5)(B) of  
19 the Social Security Act (42 U.S.C. 423(d)(5)(B)), as  
20 amended by section 812(b), is further amended by adding  
21 at the end the following new sentences: “In weighing med-  
22 ical evidence, the Commissioner of Social Security may as-  
23 sign greater weight to certain opinion evidence supplied  
24 by an individual’s treating physician (or other treating  
25 health care provider) than to opinion evidence obtained

1 from another source, but in no circumstance shall opinion  
2 evidence from any source be given controlling weight.”

3 (c) HEALTH CARE PROVIDERS SUPPLYING CON-  
4 SULTATIVE EXAMS.—

5 (1) IN GENERAL.—Beginning 1 year after the  
6 date of enactment of this Act, in determining wheth-  
7 er an individual applying for disability insurance  
8 benefits under title II of the Social Security Act is  
9 disabled, the Commissioner of Social Security shall  
10 not consider medical evidence resulting from a con-  
11 sultative exam with a health care provider conducted  
12 for the purpose of supporting the individual’s appli-  
13 cation unless the evidence is accompanied by a Med-  
14 ical Consultant Acknowledgment Form signed by the  
15 health care provider who conducted the exam.

16 (2) MEDICAL CONSULTANT ACKNOWLEDGMENT  
17 FORM.—

18 (A) DEFINITION.—As used in this sub-  
19 section, the term “Medical Consultant Acknowl-  
20 edgment Form” means a form published by the  
21 Commissioner of Social Security that meets the  
22 requirements of subparagraph (B).

23 (B) REQUIREMENTS.—The Commissioner  
24 of Social Security shall develop the Medical  
25 Consultant Acknowledgment Form and make it

1 available to the public not later than 6 months  
2 after the date of enactment of this Act. The  
3 contents of the Medical Consultant Acknowledg-  
4 ment Form shall include—

5 (i) information on how medical evi-  
6 dence is used in disability determinations;

7 (ii) instructions on completing a resid-  
8 ual functional capacity form;

9 (iii) information on the legal and eth-  
10 ical obligations of a health care provider  
11 who supplies medical evidence for use in a  
12 disability determination, including any civil  
13 or criminal penalties that may be imposed  
14 on a health care provider who supplies  
15 medical evidence for use in a disability de-  
16 termination; and

17 (iv) a statement that the signatory  
18 has read and understands the contents of  
19 the form.

20 (3) PENALTIES FOR FRAUD.—In addition to  
21 any other penalties that may be prescribed by law,  
22 any individual who forges a signature on a Medical  
23 Consultant Acknowledgment Form submitted to the  
24 Commissioner of Social Security shall be guilty of  
25 making a false statement or representation of mate-

1       rial fact, and upon conviction shall be subject to civil  
2       and criminal penalties under sections 208 and 1129  
3       of the Social Security Act and, in the case of a rep-  
4       resentative, shall be suspended or disqualified from  
5       appearing before the Social Security Administration.

6       (d) SYMPTOM VALIDITY TESTS.—

7           (1) IN GENERAL.—For purposes of evaluating  
8       the credibility of an individual’s medical evidence, an  
9       administrative law judge responsible for conducting  
10      a hearing to determine whether an individual apply-  
11      ing for disability insurance benefits under title II of  
12      the Social Security Act or for monthly benefits  
13      under section 202 of such Act by reason of a dis-  
14      ability may require the individual to undergo a  
15      symptom validity test either prior to or after the  
16      hearing.

17          (2) WEIGHT GIVEN TO SVTS.—An administra-  
18      tive law judge may only consider the results of a  
19      symptom validity test as a part of an individual’s en-  
20      tire medical history and shall not give controlling  
21      weight to such results.

22      (e) EVIDENCE OBTAINED FROM PUBLICLY AVAIL-  
23      ABLE SOCIAL MEDIA.—For purposes of evaluating the  
24      credibility of an individual’s medical evidence, an adminis-  
25      trative law judge responsible for conducting a hearing to

1 determine whether an individual applying for disability in-  
2 surance benefits under title II of the Social Security Act  
3 is disabled shall be permitted to consider information  
4 about the individual obtained from publicly available social  
5 media.

6 (f) REGULATIONS RELATED TO EVALUATING MED-  
7 ICAL EVIDENCE.—Not later than 1 year after the date of  
8 enactment of this Act, the Commissioner of Social Secu-  
9 rity shall promulgate rules and regulations to carry out  
10 the purposes of this section, including regulations relating  
11 to when it is appropriate for an administrative law judge  
12 to order a symptom validity test or to consider evidence  
13 obtained from publicly available social media.

14 **SEC. 817. REFORMING FEES PAID TO ATTORNEYS AND**  
15 **OTHER CLAIMANT REPRESENTATIVES.**

16 (a) PROHIBITION ON REIMBURSEMENT FOR TRAVEL  
17 EXPENSES.—Not later than 1 year after the date of enact-  
18 ment of this Act, the Commissioner of Social Security  
19 shall establish rules and regulations relating to the fees  
20 payable to representatives of individuals claiming entitle-  
21 ment to disability insurance benefits under title II of the  
22 Social Security Act (42 U.S.C. 401 et seq.) to prohibit  
23 a representative from being reimbursed by the Social Se-  
24 curity Administration for travel expenses related to a case.

1 (b) ELIMINATING DIRECT PAYMENTS TO CLAIMANT  
2 REPRESENTATIVES.—

3 (1) IN GENERAL.—Section 206 of the Social  
4 Security Act (42 U.S.C. 406) is amended—

5 (A) in subsection (a)—

6 (i) by striking paragraph (4); and

7 (ii) by redesignating paragraph (5) as  
8 paragraph (4);

9 (B) in subsection (b)(1)(A), by striking  
10 “and the Commissioner of Social Security” and  
11 all that follows through “as provided in this  
12 paragraph” and inserting “with such amount to  
13 be paid out of, and not in addition to, the  
14 amount of such past-due benefits”; and

15 (C) by striking subsections (d) and (e).

16 (2) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall apply to determinations  
18 made after the date of the enactment of this Act.

19 (c) REVIEW OF HIGHEST-EARNING CLAIMANT REP-  
20 RESENTATIVES.—

21 (1) REVIEW.—Not later than 1 year after the  
22 date of enactment of this Act and annually there-  
23 after, the Inspector General of the Social Security  
24 Administration shall conduct a review of the prac-  
25 tices of a sample of the highest-earning claimant

1 representatives and law firms to ensure compliance  
2 with the policies of the Social Security Administra-  
3 tion. In reviewing representative practices, the In-  
4 spector General shall look for suspicious practices,  
5 including—

6 (A) repetitive language in residual func-  
7 tional capacity forms;

8 (B) irregularities in the licensing history of  
9 medical professionals providing medical opin-  
10 ions in support of a claimant's application; and

11 (C) a disproportionately high number of  
12 appearances by a representative before the  
13 same administrative law judge.

14 (2) REPORT.—Not later than December 1 of  
15 each year in which a review described in paragraph  
16 (1) is conducted, the Inspector General of the Social  
17 Security Administration shall submit a report con-  
18 taining the results of such review, together with any  
19 recommendations for administrative action or pro-  
20 posed legislation that the Inspector General deter-  
21 mines appropriate, to the Committees on Finance  
22 and Homeland Security and Government Affairs of  
23 the Senate and the Committees on Ways and Means  
24 and Oversight and Government Reform of the House  
25 of Representatives.



1 (d) APPLICABILITY OF THE EQUAL ACCESS TO JUS-  
2 TICE ACT.—Section 205 of the Social Security Act (42  
3 U.S.C. 405) is amended by adding at the end the following  
4 new subsection:

5 “(v) Sections 504 of title 5 and 2412 of title 28,  
6 United States Code (commonly known as the ‘Equal Ac-  
7 cess to Justice Act’), shall not apply to—

8 “(1) any review under this title of a determina-  
9 tion of disability made by the Commissioner of So-  
10 cial Security; or

11 “(2) if new evidence is submitted by an indi-  
12 vidual after a hearing to determine whether or not  
13 the individual is under a disability, judicial review of  
14 a final determination of disability under subsection  
15 (g) of this section.”.

16 **SEC. 818. STRENGTHENING THE ADMINISTRATIVE LAW**  
17 **JUDGE QUALITY REVIEW PROCESS.**

18 (a) IN GENERAL.—

19 (1) REVIEW.—Not later than 1 year after the  
20 date of enactment of this Act and annually there-  
21 after, the Division of Quality of the Office of Appel-  
22 late Operations of the Social Security Administra-  
23 tion shall conduct a review of a sample of determina-  
24 tions that individuals are entitled to disability insur-  
25 ance benefits by outlier administrative law judges

1 and identify any determinations that are not sup-  
2 ported by the evidence.

3 (2) REPORT.—Not later than December 1 of  
4 each year in which a review described in paragraph  
5 (1) is conducted, the Division of Quality Review of  
6 the Office of Appellate Operations of the Social Se-  
7 curity Administration shall submit a report con-  
8 taining the results of such review, including all de-  
9 terminations that were found to be unsupported by  
10 the evidence, together with any recommendations for  
11 administrative action or proposed legislation that the  
12 Division determines appropriate, to—

13 (A) the Inspector General of the Social Se-  
14 curity Administration;

15 (B) the Commissioner of the Social Secu-  
16 rity Administration;

17 (C) the Committees on Ways and Means  
18 and Oversight and Government Reform of the  
19 House of the Representatives; and

20 (D) the Committees on Finance and  
21 Homeland Security and Government Affairs of  
22 the Senate.

23 (3) DEFINITION OF OUTLIER ADMINISTRATIVE  
24 LAW JUDGE.—For purposes of this subsection, the  
25 term “outlier administrative law judge” means an

1 administrative law judge within the Office of Dis-  
2 ability Adjudication and Review of the Social Secu-  
3 rity Administration who, in a given year—

4 (A) issues more than 700 decisions; and

5 (B) determines that the applicant—

6 (i) is entitled to disability insurance  
7 benefits in not less than 85 percent of  
8 cases; or

9 (ii) is not entitled to disability insur-  
10 ance benefits in not less than 15 percent of  
11 cases.

12 (b) MANDATORY CONTINUING DISABILITY RE-  
13 VIEW.—

14 (1) IN GENERAL.—The Commissioner of Social  
15 Security shall ensure that, not less than 6 months  
16 after receiving a report described in subsection  
17 (a)(2), every determination of entitlement found to  
18 be unsupported by the evidence is in the process of  
19 being reviewed under section 221(i)(1) of the Social  
20 Security Act.

21 (2) CONFORMING AMENDMENT.—Section  
22 221(i)(1) of the Social Security Act (42 U.S.C.  
23 421(i)(1)) is amended by inserting “or under section  
24 818(b) of the Bipartisan Budget Act of 2015” after  
25 “administration of this title”.

1 **SEC. 819. PERMITTING DATA MATCHING BY INSPECTORS**

2 **GENERAL.**

3 Clause (ix) of section 552a(a)(8)(B) of title 5, United  
4 States Code, is amended by striking “the Secretary of  
5 Health and Human Services or the Inspector General of  
6 the Department of Health and Human Services” and in-  
7 serting “the Inspector General of an agency, or an agency  
8 in coordination with an Inspector General”.

9 **SEC. 820. ACCOUNTING FOR SOCIAL SECURITY PROGRAM**

10 **INTEGRITY SPENDING.**

11 Amounts made available for Social Security program  
12 integrity spending by the Social Security Administration  
13 for a fiscal year shall be—

14 (1) included in a separate account within the  
15 Federal budget; and

16 (2) funded in a separate account in the appro-  
17 priate annual appropriations bill.

18 **SEC. 821. USE OF THE NATIONAL DIRECTORY OF NEW**

19 **HIRES.**

20 Beginning with the date that is 1 year after the date  
21 of the enactment of this Act, the Commissioner of Social  
22 Security shall consult the National Directory of New Hires  
23 established under section 453(i) of the Social Security Act  
24 (42 U.S.C. 653(i)) in determining whether any individual  
25 who submits an application or reapplication for disability  
26 insurance benefits under title II of the Social Security Act

1 or for monthly benefits under section 202 of such Act by  
2 reason of a disability is able to engage in substantial gain-  
3 ful activity.

4 **SEC. 822. ENSURING PROPER APPLICATION OF THE MED-**  
5 **ICAL IMPROVEMENT REVIEW STANDARD.**

6 (a) IN GENERAL.—The Commissioner of Social Secu-  
7 rity shall establish within the Social Security Administra-  
8 tion an office to ensure the proper identification of individ-  
9 uals who should not be entitled to benefits on the basis  
10 of a finding that the physical or mental impairment on  
11 the basis of which such benefits are provided has ceased,  
12 does not exist, or is not disabling, as described in sections  
13 223(f) and 1614(a)(4) of the Social Security Act.

14 (b) ADDITIONAL FUNCTIONS.—The office described  
15 in subsection (a) shall carry out the functions described  
16 in such subsection by providing training to officers and  
17 employees of the Social Security Administration, carrying  
18 out data collection and reviews, and proposing such policy  
19 recommendations and clarification as are determined ap-  
20 propriate.

21 (c) TRAINING FOR ADMINISTRATIVE LAW JUDGES.—  
22 The Commissioner of Social Security shall establish a pro-  
23 gram to provide for more efficient and effective training  
24 for all individuals and agencies involved in the disability  
25 determination process under section 221 of the Social Se-

1 curity Act, including Disability Determination Services  
2 agencies and the administrative law judges of the Social  
3 Security Administration, in regards to making determina-  
4 tions in which an individual should not be entitled to bene-  
5 fits on the basis of a finding that the physical or mental  
6 impairment on the basis of which such benefits are pro-  
7 vided has ceased, does not exist, or is not disabling, as  
8 described in sections 223(f) and 1614(a)(4) of the Social  
9 Security Act.

10 (d) APPLICATION OF INITIAL DISABILITY STANDARD  
11 IN CERTAIN CASES.—

12 (1) DISABILITY INSURANCE BENEFITS.—Sec-  
13 tion 223 of the Social Security Act (42 U.S.C. 423)  
14 is amended by adding at the end the following new  
15 subsection:

16 “Application of Initial Disability Standard

17 “(k)(1) For purposes of subsection (f), in the case  
18 of an individual whose case file (including new evidence  
19 concerning the individual’s prior or current condition  
20 which is presented by the individual or secured by the  
21 Commissioner of Social Security) does not provide suffi-  
22 cient evidence for purposes of making a determination  
23 under paragraph (1) of such subsection, a recipient of ben-  
24 efits under this title or title XVIII based on the disability  
25 of such individual shall not be entitled to such benefits

1 unless such individual furnishes such medical and other  
2 evidence required under subsection (d) to determine that  
3 such individual is under a disability.

4 “(2) Any determination made under this subsection  
5 shall be made on the basis of the weight of the evidence  
6 and on a neutral basis with regard to the individual’s con-  
7 dition, without any initial inference as to the presence or  
8 absence of disability being drawn from the fact that the  
9 individual has previously been determined to be disabled.

10 “(3) For purposes of this subsection, a benefit under  
11 this title is based on an individual’s disability if it is a  
12 disability insurance benefit, a child’s, widow’s, or wid-  
13 ower’s insurance benefit based on disability, or a mother’s  
14 or father’s insurance benefit based on the disability of the  
15 mother’s or father’s child who has attained age 16.”.

16 (2) SUPPLEMENTAL SECURITY INCOME BENE-  
17 FITS.—Section 1614 of such Act (42 U.S.C. 1382c)  
18 is amended by adding at the end the following new  
19 subsection:

20 “Application of Initial Disability Standard

21 “(g)(1) For purposes of paragraph (4) of subsection  
22 (a), in the case of an individual whose case file (including  
23 new evidence concerning the individual’s prior or current  
24 condition which is presented by the individual or secured  
25 by the Commissioner of Social Security) does not provide

1 sufficient evidence for purposes of making a determination  
2 under subparagraph (A) of such paragraph, a recipient of  
3 benefits based on disability under this title shall not be  
4 entitled to such benefits unless such individual furnishes  
5 such medical and other evidence required under subsection  
6 (a)(3) to determine that such individual is under a dis-  
7 ability.

8 “(2) Any determination made under this subsection  
9 shall be made on the basis of the weight of the evidence  
10 and on a neutral basis with regard to the individual’s con-  
11 dition, without any initial inference as to the presence or  
12 absence of disability being drawn from the fact that the  
13 individual has previously been determined to be disabled.”.

14 (3) CONFORMING AMENDMENTS.—

15 (A) Subsection (f) of section 223 of such  
16 Act is amended by striking “A recipient of ben-  
17 efits” and inserting “Subject to subsection (k),  
18 a recipient of benefits”.

19 (B) Paragraph (4) of section 1614(a) of  
20 such Act is amended by striking “A recipient of  
21 benefits” and inserting “Subject to subsection  
22 (g), a recipient of benefits”.

23 (4) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to determinations  
25 made after the date of the enactment of this Act.