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Social Security: The Windfall Elimination Provision (WEP)

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May 25, 2016

Congressional Research Service
7-5700
www.crs.gov
98-35

Summary

The windfall elimination provision (WEP) reduces the Social Security benefits of workers who also have pension benefits from employment not covered by Social Security. Its purpose is to remove an advantage or "windfall" these workers would otherwise receive as a result of the interaction between the Social Security benefit formula and the workers' relatively small portion of their careers in Social Security-covered employment. Opponents contend the provision is imprecise and can be unfair.

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Background

The Social Security benefit formula is designed so that workers with low average lifetime earnings in Social Security-covered employment receive a benefit that is a larger proportion of their previous earnings than do workers with high average lifetime earnings in covered employment.[1] The benefit formula, however, does not distinguish between workers who have low average earnings because they worked for many years at low wages in Social Security-covered employment and workers who appear to have low average earnings because they worked in Social Security-covered employment for only part of their career. The generous benefit that would be provided to workers with short careers in Social Security-covered employment—in particular, workers who have split their careers between Social Security-covered and non-covered employment—is sometimes referred to as a "windfall" that would exist in the absence of the *windfall elimination provision* (WEP). The WEP reduces the Social Security benefits of workers who have pension benefits from employment not covered by Social Security.

A worker qualifies for Social Security retirement benefits by working in Social Security-covered employment for 10 or more years (more specifically, by earning 40 or more "quarters of coverage").[2] The worker's earnings history is indexed to wage growth to bring earlier years of his or her earnings up to a comparable, current basis. Average indexed earnings are found by totaling the highest 35 years of indexed wages and then dividing by 35. Next, a monthly average, known as *average indexed monthly earnings* (AIME), is found by dividing the annual average by 12.

The Social Security benefit formula is progressive, replacing a greater share of average lifetime earnings for low-wage workers than for high-wage workers. The benefit formula applies three factors—90%, 32%, and 15%—to three different levels, or brackets, of AIME.[3] The result is known as the *primary insurance amount* (PIA) and is rounded down to the nearest 10 cents. The PIA is the worker's basic benefit before any adjustments are applied. For people who attain age 62, die, or become disabled in 2016, the PIA is determined in **Table 1** as follows:

Table 1. Social Security Benefit Formula in 2016

Factor	Average Indexed Monthly Earnings (AIME)
90%	of the first $856, plus
32%	of AIME over $856 and through $5,157, plus
15%	of AIME over $5,157

Source: CRS, based on Social Security Administration, Office of the Chief Actuary, "Benefit Formula Bend Points," https://www.ssa.gov/oact/cola/bendpoints.html.

The averaging provision in the benefit formula tends to cause workers with short careers in Social Security-covered employment to have low AIMEs, similar to people who worked for low wages in covered employment throughout their careers. This is because years of zero covered earnings are entered as zeros into the formula that averages the worker's wage history over 35 years. For

[1] In covered employment, earnings are subject to the Social Security payroll tax; Social Security benefits are based on covered earnings.

[2] Disabled workers are generally required to have worked fewer years. For more information, see Social Security Administration (SSA), *How You Earn Credits,* Publication No. 05-10072, January 2016, https://www.ssa.gov/pubs/EN-05-10072.pdf.

[3] Both the annual earnings amounts over the worker's lifetime and the bracket amounts are indexed to national wage growth so that the Social Security benefit replaces approximately the same proportion of wages for each generation.

example, a person with 10 years in Social Security-covered employment would have an AIME that reflects 25 years of zero earnings.

Consequently, for a worker whose AIME is low because a career was split between covered and non-covered employment, the benefit formula replaces more of covered earnings at the 90% rate than if this worker had spent a full 35-year career in covered employment at the same wage level. The higher replacement rate[4] for workers who have split their careers between Social Security-covered and non-covered jobs is sometimes referred to as a "windfall."[5]

How the Windfall Elimination Provision Works

A different Social Security benefit formula, referred to as the *windfall elimination provision*, applies to many workers who are entitled to Social Security as well as to a pension from work not covered by Social Security (e.g., individuals who work for certain state and local governments or federal workers covered by the Federal Civil Service Retirement System [CSRS]).[6] Under these rules, the 90% factor in the first bracket of the formula is reduced to as low as 40%. The effect is to lower the proportion of earnings in the first bracket that are converted to benefits. **Table 2** illustrates how the regular benefit formula and the WEP work in 2016 for someone with a 40% factor.

Table 2. Monthly PIA for a Worker with Average Indexed Monthly Earnings of $1,500, Retiring in 2016 with 20 or Fewer Years of Covered Employment

Regular Formula		**Windfall Elimination Formula**	
90% of first $856	$770.40	40% of first $856	$342.40
32% of earnings over $856 and through $4,980	$206.08	32% of earnings over $826 and through $4,980	$206.08
15% over $4,980	0.00	15% over $4,980	0.00
Total	**$976.48**	**Total**	**$548.48**

Source: CRS.

Note: To simplify the example, rounding conventions that would normally apply are not used here.

Under the WEP formula, the monthly benefit is $428.00 ($976.48-$548.48) lower than under the regular benefit formula. Note that the WEP reduction is limited to the first bracket in the AIME formula (90% vs. 40%), while the 32% and 15% factors for the second and third brackets are unchanged. As a result, for AIME amounts that exceed the first formula threshold of $856, the WEP reduction remains a flat $428 per month. For example, if the worker had an AIME of $4,000 instead of $1,500, the WEP reduction would still be $428 per month. The WEP therefore

[4] The replacement rate is the ratio of a Social Security benefit to a worker's pre-retirement income.

[5] The WEP is sometimes confused with the Government Pension Offset (GPO), which reduces Social Security benefits paid to spouses and widow(er)s of insured workers if the spouse or widow(er) also receives a pension based on government employment not covered by Social Security. For more information on the GPO, please refer to CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*.

[6] Sections 215(a)(7) and (d)(3) of the Social Security Act; 42 U.S.C. §§415(a)(7) and (d)(3). See also 20 C.F.R. §§404.213 and 404.243 as well as SSA, Program Operations Manual System, "RS 00605.360 WEP Applicability," June 24, 2013, http://policy.ssa.gov/poms.nsf/lnx/0300605360. Federal service where Social Security taxes are withheld (i.e., Federal Employees' Retirement System or CSRS Offset) is not affected by the WEP.

causes a proportionally larger reduction in benefits for workers with lower AIMEs and monthly benefit amounts.[7]

A "guarantee" in the WEP ensures that the WEP reduction cannot exceed half of the government pension based on the worker's non-covered work. This guarantee is designed to help protect workers with low pensions from non-covered work and also ensures that the WEP can never eliminate a worker's Social Security benefit. The WEP does not apply to workers who have 30 or more years of substantial employment covered under Social Security, with an adjusted formula for workers with 21 to 29 years of substantial covered employment, as shown in **Table 3**.[8]

Table 3. WEP Reduction, by Years of Substantial Coverage

Years of Social Security Coverage										
20 or fewer	**21**	**22**	**23**	**24**	**25**	**26**	**27**	**28**	**29**	**30+**
First factor in formula:										
40%	45%	50%	55%	60%	65%	70%	75%	80%	85%	90%
Maximum dollar amount of monthly WEP reduction in 2016:[a]										
$428.00	$385.20	$342.40	$299.60	$256.80	$214.00	$171.20	$128.40	$85.60	$42.80	$0.00

Source: Social Security Administration, "How the Windfall Elimination Provision Can Affect Your Social Security Benefit," http://www.socialsecurity.gov/retire2/wep-chart.htm.

Notes: The maximum dollar amount of the reduction under the WEP represents the difference between the first bend point ($856.00 in 2016) multiplied by the 90% factor and the first bend point multiplied by the applicable factor based on years of Social Security–covered employment. For example, if a worker with a non-covered pension has 20 years of substantial coverage, the maximum monthly WEP reduction is $770.40 (90% of $856.00) minus $342.40 (40% of $856.00), which equals $428.00.

a. The WEP reduction may be lower than the amount shown because the reduction is limited to one-half of the worker's pension from non-covered employment. Also, the reduction is greatest when the AIME is equal to or exceeds the first bend point in the computation formula. When the AIME is less than the first bend point, the effect of the WEP formula is reduced.

The WEP applies to benefits payable to retired or disabled-worker beneficiaries and their eligible dependents. It does *not* apply to survivor benefits.

The WEP also does *not* apply to (1) an individual who on January 1, 1984, was an employee of a government or nonprofit organization and to whom Social Security coverage was mandatorily extended by the 1983 amendments to the Social Security Act (e.g., the President, Members of Congress in office on December 31, 1983); (2) workers who attained age 62, became disabled, or

[7] For the worker shown in **Table 2,** with an AIME of $1,500 and a monthly benefit of $976.48 under the regular benefit formula in 2016, the WEP reduction of $428.00 represents a cut of approximately 44% to the regular formula monthly benefit amount. By comparison, a worker with an AIME of $4,000 would be entitled to a PIA of $1,752.48 under the 2016 regular benefit formula, and the same WEP reduction of $428 per month would represent a 24% reduction in this worker's monthly benefit amount.

[8] For determining years of coverage after 1978 for individuals with pensions from non-covered employment, "substantial coverage" is defined as 25% of the "old law" (i.e., if the 1977 Social Security Amendments had not been enacted) Social Security maximum taxable wage base for each year in question. In 2016, the "old-law" taxable wage base is equal to $88,200; therefore, to earn credit for one year of substantial employment under the WEP, a worker would have to earn at least $22,050 in Social Security-covered employment. For the thresholds for previous years, see SSA, *Windfall Elimination Provision*, Publication No. 05-10045, January 2016, http://www.ssa.gov/pubs/EN-05-10045.pdf. See also SSA, "Old-Law Base and Year of Coverage," https://www.ssa.gov/oact/cola/yoc.html.

were first eligible for a pension from non-covered employment before 1986; (3) benefits from foreign Social Security systems that are based on a totalization agreement with the United States; and (4) people whose only non-covered employment that resulted in a pension was in military service before 1957 or is based on railroad employment.[9]

Who Is Affected by the WEP?

According to the Social Security Administration (SSA), as of December 2015, nearly 1.7 million Social Security beneficiaries were affected by the WEP (**Table 4**). The overwhelming majority of those affected by the WEP (about 93%) were retired workers. Approximately 3% of all Social Security beneficiaries (including disabled workers and dependent beneficiaries) and about 4% of all retired-worker beneficiaries were affected by the WEP in December 2015.[10] Of retired workers affected by the WEP, approximately 60% were men.[11]

Table 4. Number of Beneficiaries in Current Payment Status with Benefits Affected by WEP, by State and Type of Beneficiary, December 2015

		Type of Beneficiary		
State	**Total**	**Retired Workers**	**Disabled Workers**	**Spouses and Children**
Total	**1,692,609**	**1,574,787**	**15,823**	**101,999**
Alabama	18,683	17,181	269	1,233
Alaska	9,578	9,088	92	398
Arizona	31,559	29,498	263	1,798
Arkansas	10,475	9,852	173	450
California	231,420	216,442	1,930	13,048
Colorado	54,223	51,186	707	2,330
Connecticut	17,504	16,727	123	654
Delaware	3,959	3,761	38	160
District of Columbia	7,831	7,511	91	229
Florida	94,191	87,802	779	5,610
Georgia	49,328	46,791	501	2,036
Hawaii	10,341	9,560	51	730
Idaho	7,244	6,748	75	421
Illinois	88,799	84,605	532	3,662
Indiana	16,034	15,055	184	795
Iowa	8,099	7,682	51	366

[9] *Totalization agreements* are bilateral agreements that provide limited coordination of the U.S. Social Security program with comparable social insurance programs of other countries. The agreements are intended primarily to eliminate dual Social Security taxation based on the same work and provide benefit protection for workers who divide their careers between the U.S. and a foreign country. See SSA, "U.S. International Social Security Agreements," https://www.ssa.gov/international/agreements_overview.html.

[10] Data on the total Social Security beneficiary and retired-worker populations used in calculations are available from the "Social Security Beneficiary Data" page on SSA's website at https://www.ssa.gov/oact/ProgData/beniesQuery.html.

[11] SSA, Office of Research, Evaluation and Statistics, February 2016, unpublished table W01.

State	Total	Type of Beneficiary: Retired Workers	Disabled Workers	Spouses and Children
Kansas	9,106	8,563	107	436
Kentucky	22,260	21,018	253	989
Louisiana	37,911	35,021	686	2,204
Maine	16,235	15,460	127	648
Maryland	46,812	44,224	442	2,146
Massachusetts	65,951	62,874	643	2,434
Michigan	20,534	19,066	252	1,216
Minnesota	16,710	15,846	123	741
Mississippi	9,539	8,881	143	515
Missouri	35,958	34,375	356	1,227
Montana	5,942	5,549	45	348
Nebraska	5,275	4,987	47	241
Nevada	27,911	26,657	224	1,030
New Hampshire	7,483	7,068	95	320
New Jersey	22,478	20,836	288	1,354
New Mexico	12,939	11,894	142	903
New York	31,624	29,254	347	2,023
North Carolina	29,049	27,408	251	1,390
North Dakota	2,311	2,172	17	122
Ohio	127,209	120,243	1,299	5,667
Oklahoma	17,418	16,170	229	1,019
Oregon	16,471	15,403	118	950
Pennsylvania	35,814	33,395	435	1,984
Rhode Island	5,315	5,048	58	209
South Carolina	17,996	16,900	156	940
South Dakota	3,860	3,685	29	146
Tennessee	20,021	18,721	200	1,100
Texas	157,234	147,386	1,359	8,489
Utah	13,247	12,169	117	961
Vermont	2,609	2,442	22	145
Virginia	48,308	44,992	310	3,006
Washington	31,082	28,640	253	2,189
West Virginia	6,170	5,615	108	447
Wisconsin	12,019	11,352	86	581
Wyoming	2,349	2,212	18	119
Outlying areas and foreign countries	90,191	69,772	579	19,840

Source: Social Security Administration, Office of Research, Evaluation and Statistics, February 2016, unpublished Table B.

Legislative History and Rationale

The windfall elimination provision was enacted in 1983 as part of major amendments designed to shore up the financing of the Social Security program.[12] The 40% WEP formula factor was the result of a compromise between a House bill that would have substituted a 61% factor for the regular 90% factor and a Senate proposal that would have substituted a 32% factor.[13]

The purpose of the 1983 provision was to remove an unintended advantage that the regular Social Security benefit formula provided to people who also had pensions from non-Social Security-covered employment. The regular formula was intended to help workers who spent their lifetimes in low paying jobs, by providing them with a benefit that replaces a higher proportion of their career-average earnings than the benefit provided to workers with high lifetime average earnings. However, the formula does not differentiate between those who worked in low-paid jobs throughout their careers and other workers who appear to have been low paid because they worked many years in jobs not covered by Social Security. Under the old law, workers who were employed for only a portion of their careers in jobs covered by Social Security—even highly paid ones—also received the advantage of the weighted formula.

Arguments for the WEP

Proponents of the measure say that it is a reasonable means to prevent payment of overgenerous and unintended benefits to certain workers who otherwise would profit from happenstance (i.e., the mechanics of the Social Security benefit formula). Furthermore, they maintain that the provision rarely causes hardship because by and large the people affected are reasonably well off because by definition they also receive government pensions from non-covered work. The guarantee provision ensures that the reduction in Social Security benefits cannot exceed half of the pension from non-covered work, which protects people with small pensions from non-covered work. In addition, the impact of the WEP is reduced for workers who spend 21 to 29 years in Social Security-covered work and is eliminated for people who spend 30 years or more in Social Security-covered work.

Arguments Against the WEP

Some opponents believe the provision is unfair because it substantially reduces a benefit that workers may have included in their retirement plans. Others criticize how the provision works. They say the arbitrary 40% factor in the windfall elimination formula is an imprecise way to determine the actual windfall when applied to individual cases.[14]

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[12] Social Security Amendments of 1983 (P.L. 98-21). For more information on the 1983 amendments, see John A. Svahn and Mary Ross, "Social Security Amendments of 1983: Legislative History and Summary of Provisions," *Social Security Bulletin*, vol. 46, no. 7 (July 1983), https://www.ssa.gov/policy/docs/ssb/v46n7/v46n7p3.pdf.

[13] U.S. Congress, Committee of Conference, *Social Security Amendments of 1983*, conference report to accompany H.R. 1900, 98th Cong., 1st sess., March 24, 1983, H.Rept. 98-47 (Washington: GPO, 1983), pp. 120-121, http://www.finance.senate.gov/imo/media/doc/Conf-98-47.pdf.

[14] See, for example, the Social Security Advisory Board, *The Windfall Elimination Provision: It's Time to Correct the Math*, October 1, 2015, http://www.ssab.gov/Portals/0/OUR_WORK/REPORTS/WEP_Position_Paper_2015.pdf.

The WEP's Impact on Low-Income Workers

The impact of the WEP on low-income workers has been the subject of debate. Jeffrey Brown and Scott Weisbenner (hereinafter referred to as "Brown and Weisbenner") point out two reasons why the WEP can be regressive.[15] First, because the WEP adjustment is confined to the first bracket of the benefit formula ($856 in 2016), it causes a proportionally larger reduction in benefits for workers with lower AIMEs and benefit amounts. Second, a high earner is more likely than a low earner to cross the "substantial work" threshold for accumulating years of covered earnings (in 2016 this threshold is $22,050 in Social Security-covered earnings); therefore, high earners are more likely to benefit from the provision that phases out of the WEP for people with between 21 and 30 years of covered employment.

Brown and Weisbenner found that the WEP does reduce benefits disproportionately for lower-earning households. For some high-income households, applying the WEP to covered earnings even provides a higher replacement rate than if the WEP were applied proportionately to all earnings, covered and non-covered. Brown and Weisbenner found that the WEP can also lead to large changes in Social Security replacement rates based on small changes in covered earnings, particularly when a small increase in covered earnings carries a person over the threshold for an additional year of substantial covered earnings, leading to an adjustment in the WEP formula applied to the AIME.

SSA estimated that in 2000, 3.5% of beneficiaries affected by the WEP had incomes below the poverty line. For comparison purposes, at that time 8.5% of Social Security beneficiaries aged 65 and older had incomes below the poverty line and 11.3% of the general population had incomes below the poverty line.[16] This comparison implies that people who are subject to the WEP, who by definition also have pensions from non-covered employment, face a somewhat reduced risk of poverty compared with other Social Security beneficiaries.

Legislative Activity on the WEP

Legislative proposals to alter the WEP generally fall into three categories:

1. Bills that would repeal the provision outright;
2. Those that would phase in a WEP reduction only for beneficiaries whose income from a monthly Social Security benefit and a monthly pension from non-covered work total to a combined threshold amount; and
3. Those that would replace the current WEP formula with an alternative computation.

The section below discusses select proposals introduced in the 114th Congress that would eliminate, modify, or replace the WEP.

[15] Jeffrey R. Brown and Scott Weisbenner, "The Distributional Effects of the Social Security Windfall Elimination Provision," *Journal of Pension Economics and Finance*, vol. 12, iss. 04 (October 2013), pp. 415-434, at http://business.illinois.edu/weisbenn/RESEARCH/PAPERS/JPEF_Brown_Weisbenner.pdf.

[16] These are the most recent estimates available. Poverty rates were calculated by David Weaver of the Social Security Administration's Office of Retirement Policy using the March 2001 Current Population Survey (CPS). Poverty status is taken directly from the CPS and is thus subject to errors in the reporting of income. The sample size for the WEP poverty rate is relatively small (230 cases) and only includes people for whom SSA administrative records could be matched.

H.R. 973 and S. 1651

H.R. 973 and S. 1651, identical bills both titled the Social Security Fairness Act of 2015, were introduced by Representative Rodney Davis on February 13, 2015, and Senator Sherrod Brown on June 23, 2015, respectively. The legislation would repeal the WEP as well as the Government Pension Offset (GPO), which reduces the Social Security benefits paid to spouses and widow(er)s of insured workers if the spouse or widow(er) also receives a pension based on government employment not covered by Social Security.[17] The elimination of the WEP and GPO would apply to benefits payable for months after December 2015.

SSA's Office of the Chief Actuary (OACT) projects that repealing both the WEP and GPO would reduce the long-range actuarial balance (i.e., increase the net long-term cost) of the Social Security trust funds on a combined basis by 0.13% of taxable payroll.[18] The proposal would also change the projected depletion year of the combined Social Security trust funds from 2034 to 2033.[19] (The *depletion year* is the year in which the balance of the trust fund falls to zero.)

In 2007, SSA estimated that repealing only the WEP would increase benefit outlays by $16.7 billion over five years and $40.1 billion over 10 years.[20]

H.R. 711

H.R. 711, the Equal Treatment of Public Servants Act of 2015, was introduced by Representative Kevin Brady on February 4, 2015. The bill would replace the WEP with a new "Public Servant Fairness Formula" (PSF) for those who become eligible for Social Security retirement or disability benefits after 2016 and have earnings from non-covered employment after 1977. Under the PSF, the worker's AIME would be calculated using the combined earnings from service in both covered and non-covered employment. Next, SSA would calculate the worker's basic

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[17] CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*. See also SSA, Government Pension Offset, July 2015, https://www.ssa.gov/pubs/EN-05-10007.pdf.

[18] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Sherrod Brown, U.S. Senate, February 24, 2016, https://www.ssa.gov/oact/solvency/SBrown_20160224.pdf. The projection is based on the intermediate assumptions of the 2015 Social Security trustees report. It also assumes that the proposal would apply to benefits payable for months after December 2016. *Actuarial balance* is the difference between annual income and cost summarized over a 75-period (with some adjustments). Actuarial balance is expressed as a percentage of taxable payroll, which is the total amount of earnings in the economy that is subject to Social Security taxes (with some adjustments). In their 2015 report and under their intermediate assumptions, the trustees project that the long-range actuarial balance of the Social Security trust funds on a combined basis is -2.68% of taxable payroll. A negative balance is referred to as an actuarial deficit. Enactment of the proposal is projected to increase the actuarial deficit by 0.13 percentage points of taxable payroll, to 2.82%. (Total does not equal subtotals due to rounding.)

[19] When a trust fund is depleted, it no longer has any asset reserves (i.e., U.S. Treasury securities); however, it continues to receive income from payroll taxes and the taxation of benefits. See CRS Report RL33028, *Social Security: The Trust Funds*; and CRS Report RL33514, *Social Security: What Would Happen If the Trust Funds Ran Out?*. See also CRS Report RL33028, *Social Security: The Trust Funds*.

[20] Testimony of David A. Rust, acting deputy commissioner for disability and income security programs, SSA, in U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Social Security Benefits for Economically Vulnerable Beneficiaries*, 110th Cong., 2nd sess., January 16, 2008, http://www.socialsecurity.gov/legislation/testimony_011608.html. SSA's 2007 estimate of the effects of repealing the WEP was based on H.R. 82, the Social Security Fairness Act of 2007, which was introduced in the 110th Congress by Representative Howard L. Berman. The WEP provisions in H.R. 82 are identical to the WEP provisions in H.R. 973 and S. 1651. See also U.S. Congress, Senate Committee on Finance, Subcommittee on Social Security, Pensions, and Family Policy, *Government Pension Offset (GPO) and Windfall Elimination Provision (WEP): Policies Affecting Pensions from Work Not Covered by Social Security*, 110th Cong., 1st sess., November 6, 2007, 110-903 (Washington: GPO, 2007), p. 38, http://www.finance.senate.gov/imo/media/doc/51475.pdf.

benefit, or PIA, from the combined AIME by applying the 90%, 32%, and 15% factors used in the regular benefit formula. SSA would then divide the combined PIA by the combined AIME to derive the worker's replacement rate based on all covered and non-covered earnings. (A *replacement rate* is the share of a worker's average lifetime earnings that the program benefit replaces.) Finally, the replacement rate based on combined earnings would be applied to an AIME calculated using only earnings from covered employment to determine the PSF-adjusted PIA.

$$PSF\ Adjusted\ PIA = \left(\frac{PIA_{Combined\ Earnings}}{AIME_{Combined\ Earnings}}\right) x\ AIME_{Covered\ Earnings\ Only}$$

Viewed another way, the PSF would apply the regular Social Security benefit formula to all past earnings from covered and non-covered employment. The resulting benefit, or combined PIA, would then be reduced by the ratio of the AIME computed with only covered earnings to an AIME computed using combined earnings. The reduction would be smaller for workers with combined earnings derived mostly from service performed in covered employment than for workers whose combined average lifetime earnings stem primarily from non-covered employment.

It is important to note that unlike the WEP, which applies only to worker beneficiaries in receipt of pensions based on non-covered earnings, the PSF would apply to *all worker beneficiaries with non-covered earnings*, regardless of whether they are eligible for any pension benefits based on those earnings. As with the WEP, the PSF would no longer apply upon the death of the retired or disabled-worker beneficiary. Benefits payable to the deceased worker's dependents (now survivors) would be recalculated under the regular benefit formula based on covered earnings only.

Replacing the WEP with the PSF for workers eligible for Social Security after December 2016 would increase cost to the program by reducing the magnitude of the benefit offset for most workers in receipt of pensions based on non-covered employment; however, it would also result in program savings by reducing benefits for a larger number of future beneficiaries than under current law. OACT estimates that the net savings from the PSF would be about $13.6 billion for 2017 through 2025.[21]

According to SSA's chief actuary, if the PSF were applied to *current beneficiaries with non-covered earnings*, 84% of the roughly 1.5 million retired or disabled-worker beneficiaries affected by the WEP in 2016, or approximately 1.25 million worker beneficiaries, would see an increase in their monthly benefit amount.[22] OACT projects that the average increase for this group would be about $77 per month. The remaining 250,000 worker beneficiaries currently affected by the WEP would have their monthly benefit reduced by an additional $13 on average.[23] Of the roughly 15 million worker beneficiaries in 2016 with earnings from non-covered employment after 1977

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[21] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Kevin Brady, U.S. House of Representatives, March 17, 2016, p. 2, https://www.ssa.gov/oact/solvency/KBrady_20160317.pdf (hereinafter "OACT Cost Estimate for H.R. 711").

[22] Testimony of Stephen C. Goss, Chief Actuary, SSA, in U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Social Security and Public Servants: Ensuring Equal Treatment*, hearing on H.R. 711, the Equal Treatment of Public Servants Act of 2015, 114th Cong., 2nd sess., March 22, 2016, p. 3, https://www.ssa.gov/OACT/testimony/HouseWM_20160322.pdf (hereinafter "Testimony of Stephen C. Goss"). The chief actuary's submitted testimony stated that there are roughly 1.5 million retired or disabled-worker beneficiaries in 2016 whose benefits are reduced by the WEP. This figure differs from the 1.6 million retired or disabled-worker beneficiaries shown in **Table 4** who were affected by the WEP in December 2015.

[23] Ibid.

whose benefits *are not currently reduced* by the WEP, 14 million worker beneficiaries, or about 93%, would have their monthly benefit reduced by about $27 on average. These projections are for illustrative purposes only, as the PSF would apply to *new beneficiaries with non-covered earnings* starting in 2017.

In addition to establishing a new formula for future worker beneficiaries with non-covered earnings, H.R. 711 would apply the WEP to some current beneficiaries with non-covered earnings whose benefits are not reduced by the WEP under current law. Specifically, beginning in 2017, the bill would require SSA to re-compute the past and future benefits of workers who meet the following criteria:

- Were eligible for Social Security retirement or disability benefits as of December 2016;
- Have at least one year of non-covered earnings in SSA's records;
- Are not subject to a WEP reduction for December 2016; and
- Have fewer than 30 years of coverage.[24]

This provision would reduce benefits for (1) worker beneficiaries in receipt of pensions based on non-covered earnings who are not subject to the WEP reduction due to incomplete or inaccurate information in SSA's records, and (2) beneficiaries who worked in non-covered employment but are not eligible for any pension benefits based on non-covered earnings. Beneficiaries who meet the aforementioned requirements would be exempt from the modified WEP rules if they obtain evidence that they are not in receipt of any pension payments based on non-covered earnings or will not be in receipt of such payments in the future. According to SSA's chief actuary, Stephen C. Goss, affected beneficiaries

> would be required to obtain by the end of 2016 certification from any employer who paid him or her non-covered earnings. This certification would indicate whether the worker is vested for a pension, and when and how much pension has been received. A WEP reduction would be applied if it is determined to be warranted for past or future benefits. If the WEP reduction is applicable for past benefits, an overpayment would be established to be repaid by the beneficiary, principally through recovery from his or her future benefits. If an individual does not obtain certification, then the WEP would be applied for past and future benefits limited only by the number of substantial years of covered earnings.[25]

The bill does not direct SSA to inform affected beneficiaries about this change, nor does it provide funds for SSA to do so. Any outreach on the part of SSA is assumed to be voluntary and subject to available funds in its discretionary Limitation on Administrative Expenses account.[26]

OACT estimates that there are about 7.0 million worker beneficiaries in 2016 with some non-covered earnings, no reduction under the WEP, and fewer than 30 years of coverage.[27] The agency projects that up to 10% of these worker beneficiaries, or about 700,000 individuals, would have some of their past or future benefits reduced by the bill's modified WEP rules.[28] OACT stresses that this projection is highly uncertain, as the actual number of affected beneficiaries

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[24] "Years of coverage" refers to the number of years of substantial earnings in covered employment. See footnote 8.

[25] OACT Cost Estimate for H.R. 711, pp. 1-2.

[26] For more information on SSA's administrative budget, see CRS Report R41716, *The Social Security Administration (SSA): Budget Request and Appropriations*.

[27] Testimony of Stephen C. Goss, pp. 4-5.

[28] Ibid., p. 4.

would depend on how many individuals obtain valid certification. For those beneficiaries affected by the modified WEP rules, OACT estimates that the average amount of the overpayment made before 2017 that would be recovered in 2017 through 2025 would be about $8,000. The average total reduction for future benefits through 2025, net of the 50% rebate (discussed below), would also be about $8,000.[29]

Lastly, H.R. 711 would reduce the amount of the WEP offset (i.e., increase benefits) starting in 2017 for workers affected by the WEP under current law as well as those whose benefits would be reduced under the bill's modified WEP rules. The bill would limit this reduction, or rebate, to not more than 50% of the difference between the PIA calculated using the regular benefit formula and the PIA calculated using the WEP formula (i.e., up to 50% of the amount of the WEP reduction). If the full 50% rebate were applied in 2016, the maximum dollar amount of the WEP reduction would decrease from $428 to $214. The size of the rebate percentage would be determined by the commissioner of Social Security based on the amount of savings generated from enactment of the bill. H.R. 711 would require SSA to promulgate the determination on or before November 1, 2016.

OACT estimates that the savings from H.R. 711 would permit the full 50% rebate to be applied to the benefits of workers affected by the current law WEP as well as those who would be subject to the bill's modified WEP rules starting in 2017. After applying the full rebate, OACT projects that the bill would result in net savings of $3.5 billion for 2017 through 2025. Over the long-range period, the net effect of the bill on the actuarial balance of the combined trust funds would be an increase (improvement) of 0.05% of taxable payroll.[30]

President's FY2017 Budget

The President's FY2017 budget includes a proposal to replace the WEP with a new formula for workers with non-covered earnings who become eligible for Social Security benefits on or after January 1, 2027.[31] The new formula under the President's proposal is the same as the PSF under H.R. 711 (see the previous section). The President's proposal would also replace the GPO formula with one based on both covered and non-covered earnings for spouses and widow(er)s who become eligible for Social Security benefits on or after January 1, 2027.[32]

In addition, the President's FY2017 budget includes a companion proposal to improve the collection of pension data from states and localities for purposes of administering the WEP and GPO for current beneficiaries and those who become eligible for benefits prior to 2027. The proposal would require state and local government pension providers to report information on pensions based on non-covered employment via an automated data exchange. With this information, SSA would be able to identify and reduce the benefits of more worker beneficiaries receiving a pension based on non-covered earnings than the agency otherwise could under current law. OACT estimates that the improved collection of pension data would result in cost savings of

[29] Ibid., p.5.

[30] OACT Cost Estimate for H.R. 711, p. 3.

[31] U.S. Office of Management and Budget, *Appendix, Budget of the U.S. Government, Fiscal Year 2017*, February 2016, p. 1231, https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/ssa.pdf.

[32] For more information on the GPO proposal, see testimony of Samara Richardson, Acting Associate Commissioner, Office of Income Security Programs, SSA, in U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Social Security and Public Servants: Ensuring Equal Treatment*, hearing on H.R. 711, the Equal Treatment of Public Servants Act of 2015, 114th Cong., 2nd sess., March 22, 2016, https://www.ssa.gov/legislation/testimony_032216.html.

about $8.0 billion through FY2026.[33] Over the long-range period, the net effect of the two proposals on the actuarial balance of the combined trust funds would be an increase (improvement) of 0.08% of taxable payroll.

During testimony before the House Committee on Ways and Means, Subcommittee on Social Security, in March of this year, SSA's chief actuary stated that "both H.R. 711 and the President's proposal in the Fiscal Year 2017 Budget would ultimately result in a more consistent and logical adjustment to the primary benefit amounts for workers with career earnings split between covered and non-covered employment."[34]

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[33] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Shaun Donovan, OMB Director, February 10, 2016, p. 1, https://www.ssa.gov/oact/solvency/FY2017Budget_20160210.pdf.

[34] Testimony of Stephen C. Goss, p. 6.