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Social Security: The Windfall Elimination Provision (WEP)

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Summary

Social Security is a work-based, federal insurance program that provides income support to workers and their eligible family members in the event of the worker's retirement, disability, or death. A worker's employment or self-employment is considered covered by Social Security if the services performed in that job result in earnings that are taxable and creditable for program purposes. Although participation in Social Security is compulsory for most workers, about 6% of all workers in paid employment or self-employment are not covered by Social Security in 2019.

The *windfall elimination provision* (WEP) is a modified benefit formula that reduces the Social Security benefits of certain retired or disabled workers who are also entitled to pension benefits based on earnings from jobs that were not covered by Social Security and thus not subject to the Social Security payroll tax. Its purpose is to remove an unintended advantage or "windfall" that these workers would otherwise receive as a result of the interaction between the regular Social Security benefit formula and the workers' relatively short careers in Social Security-covered employment.

In December 2019, about 1.9 million people (or about 3% of all Social Security beneficiaries) were affected by the WEP. Those workers mainly include state and local government employees covered by alternative staff-retirement systems as well as most permanent civilian federal employees hired before January 1, 1984, who are covered by the Civil Service Retirement System (CSRS).

WEP's supporters argue that the formula is a reasonable means to prevent overgenerous payments and unintended benefits to people who have earnings not covered by Social Security and receive pensions from noncovered work. Opponents argue that the provision substantially reduces a benefit that workers may have included in their retirement plans, and it reduces benefits disproportionately for lower-earning households. Others criticize the current WEP formula as an imprecise way to determine the actual windfall when applied to individual cases.

Recent legislation has generally proposed either to eliminate the provision for all or some affected beneficiaries, or replace the current-law provision with a new proportional formula based on past earnings from both covered and noncovered employment.

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Introduction

Social Security provides insured workers and their eligible family members with a measure of protection against the loss of income due to the worker's retirement, disability, or death. The amount of the monthly benefit payable to workers and their family members is based on the worker's career-average earnings from jobs covered by Social Security (i.e., jobs in which the worker's earnings were subject to the Social Security payroll tax).[1] The Social Security benefit formula is weighted to replace a greater share of career-average earnings for low-paid workers than for high-paid workers. This means that low-paid workers receive relatively high benefits in relation to their payroll tax contributions, although the dollar amount of their benefits is lower than that provided to high-paid workers.

The benefit formula, however, cannot distinguish between workers who have low career-average earnings because they worked for many years at low earnings in Social Security-covered employment and workers who appear to have low career-average earnings because they worked for many years in jobs not covered by Social Security. (Those years show up as zeros in their Social Security earnings records, which, when averaged, lower their career earnings from covered work.) Consequently, workers who split their careers between covered and noncovered employment—even highly paid ones—may also receive the advantage of the weighted formula.

The *windfall elimination provision* (WEP) is a modified benefit formula designed to remove the unintended advantage, or "windfall," of the regular benefit formula for certain retired or disabled workers who spent less than full careers in covered employment and who are also entitled to pension benefits based on earnings from jobs not covered by Social Security. The reduction in initial benefits caused by the WEP is designed to place affected workers in approximately the same position they would have been in had *all* their earnings been covered by Social Security.

Background on the Social Security Benefit Formula

Workers qualify for Social Security benefits if they worked and paid Social Security payroll taxes for a sufficient amount of time in covered employment.[2] Retired workers need at least 40 earnings credits (or about 10 years of covered work), whereas disabled workers generally need fewer earnings credits.[3] Initial benefits are based on a worker's career-average earnings from jobs covered by Social Security. In computing the initial benefit amount, a worker's annual taxable earnings are indexed (i.e., adjusted) to average wage growth in the national economy.[4] This is done to bring earlier years of earnings up to a comparable, current basis. Next, a summarized measure of a worker's career-average earnings is found by totaling the highest 35 years of

[1] For the purposes of this report, the term *payroll tax* includes the Social Security self-employment tax.

[2] Unless otherwise noted, the term *covered employment* includes self-employment covered by Social Security.

[3] A worker may earn up to four earnings credits per calendar year. In 2020, a worker earns one credit for each $1,410 of covered earnings, up to a maximum of four credits for covered earnings of $5,640 or more. Earnings credits are also called *quarters of coverage*. See Social Security Administration (SSA), *How You Earn Credits*, Publication No. 05-10072, January 2020, https://www.ssa.gov/pubs/EN-05-10072.pdf.

[4] Years of earnings are indexed up to the second calendar year before the year of earliest eligibility (i.e., the year in which the worker first attains aged 62, becomes disabled, or dies). Years of earnings after the last indexing year are counted in nominal (i.e., unadjusted) dollars.

covered earnings and then dividing by 35.[5] After that, a monthly average, known as *average indexed monthly earnings* (AIME), is found by dividing the annual average by 12.

Once the worker's AIME has been derived, it is then entered into the Social Security benefit formula to produce the worker's initial benefit amount. The benefit formula is progressive, replacing a greater share of career-average earnings for low-paid workers than for high-paid workers. The benefit formula applies three factors—90%, 32%, and 15%—to three different levels, or *brackets*, of AIME. 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.[6] The benefit formula applicable to a given worker is based on the individual's earliest *eligibility year* (ELY), that is, the year in which the worker first attains age 62, becomes disabled, or dies.[7] For workers whose ELY is 2020, the PIA is determined as follows in **Table 1**.

Table 1. Social Security Benefit Formula for Workers Who First Become Eligible in 2020

Factor	Average Indexed Monthly Earnings (AIME)
90%	of the first $960, plus
32%	of AIME over $960 and through $5,785 (if any), plus
15%	of AIME over $5,785 (if any)

Source: CRS, based on Social Security Administration (SSA), Office of the Chief Actuary (OCACT), "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, even if they had high earnings in their noncovered career, similar to people who worked for low earnings 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 earnings history over 35 years. For example, a person with 10 years in Social Security-covered employment would have an AIME that reflects 25 years of zero earnings, even if that person worked for 25 years in a high-paying, noncovered career.

Consequently, for a worker whose AIME is low because his or her career was split between covered and noncovered employment, the benefit formula replaces more of covered earnings at the 90% rate than if the worker had spent a full 35-year career in covered employment at the same earnings level. The higher replacement rate[8] for workers who have split their careers between Social Security-covered and noncovered jobs is sometimes referred to as a "windfall."[9]

[5] The number of benefit computation years for disabled or deceased workers may be fewer than 35 years.

[6] The worker's primary insurance amount (PIA) is subsequently adjusted to account for inflation through cost-of-living adjustments (COLAs). Additional adjustments may be made to the PIA to account for early retirement, delayed retirement, or certain other factors.

[7] Although the factors in the formula are fixed in law, the dollar amounts defining the brackets, also known as *bend points*, are adjusted annually for average earnings growth in the national economy. Because the bend points change each year, the benefit formula for a worker with an earliest eligibility year (ELY) in 2020 is different from the benefit formula for a worker with an ELY in any other year. For bend point amount for years prior to 2020, see SSA, Office of the Chief Actuary (OCACT), "Benefit Formula Bend Points," https://www.ssa.gov/oact/cola/bendpoints.html.

[8] The *replacement rate* is the ratio of the program benefit to a worker's prior earnings.

[9] The windfall elimination provision (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

How the Windfall Elimination Provision Works

A different Social Security benefit formula, known informally as the *windfall elimination provision*, applies to certain workers who are entitled to Social Security benefits as well as to pension benefits from employment not covered by Social Security.[10] Under the WEP, 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 2020 for someone with a 40% factor.

Table 2. Hypothetical Scenario: PIA for a Worker with AIME of $1,500 Who Becomes Eligible in 2020 and Has 20 Years of Substantial Coverage

Regular Formula		WEP Formula	
90% of first $960	$864.00	*40%* of first $960	$384.00
32% of earnings over $960 and through $5,785	172.80	32% of earnings over $960 and through $5,785	172.80
15% over $5,785	0.00	15% over $5,785	0.00
Total before rounding	**$1,036.80**	**Total before rounding**	**$556.80**

Source: CRS.

Note: PIA = Primary Insurance Amount. AIME = Average Indexed Monthly Earnings.

In this scenario, the monthly benefit is $480.00 lower under the WEP than under the regular benefit formula ($1,036.80 *minus* $556.80). 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 $960, the WEP reduction remains a flat $480 per month. For example, if the worker had an AIME of $4,000 instead of $1,500, the WEP reduction would still be $480 per month. The WEP therefore causes a proportionally larger reduction in benefits for workers with lower AIMEs and monthly benefit amounts.[11]

A *guarantee* in the WEP ensures that the WEP reduction cannot exceed half of the noncovered pension based on the worker's noncovered work. This guarantee is designed to help protect workers with low pensions from noncovered work. 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**.[12]

receives a pension based on government employment not covered by Social Security. See CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*.

[10] Section 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. Moreover, see SSA, Program Operations Manual System, "RS 00605.360 WEP Applicability," June 24, 2013, https://secure.ssa.gov/apps10/poms.nsf/lnx/0300605360. The term *windfall elimination provision* is not specified in statute or in SSA's regulations.

[11] For the worker shown in **Table 2,** with an AIME of $1,500 and a monthly benefit of $1,036.80 under the regular benefit formula in 2020, the WEP reduction of $480.00 represents a cut of approximately 46% to the regular formula monthly benefit amount. By comparison, a worker with an AIME of $4,000 would be entitled to a PIA of $1,836.80 under the 2020 regular benefit formula, and the same WEP reduction of $480.00 per month would represent a 26% reduction in this worker's monthly benefit amount.

[12] For determining years of coverage after 1978 for individuals with pensions from noncovered employment,

Table 3. Maximum WEP Reduction for Workers Who Become Eligible in 2020, 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 for workers who first become eligible for Social Security in 2020:[a]										
$480	$432	$384	$336	$288	$240	$192	$144	$96	$48	$0

Source: CRS.

Notes: The WEP reduction may be lower than the amount shown because the reduction is limited to one-half of the worker's pension from noncovered employment. In addition, because the WEP reduces the initial benefit amount *before* it is reduced or increased due to early retirement, delayed retirement credits (DRCs), cost-of-living adjustments (COLAs), or other factors, the difference between the final benefit with the WEP and the final benefit without the WEP may be less than or greater than the amounts shown.

a. The maximum dollar amount of the monthly WEP is based on a worker's ELY. Because the dollar amounts defining the brackets in the benefit formula change each year, the maximum dollar amount of the WEP reduction for a worker with an ELY of 2020 is different from the maximum deduction for a worker with an ELY of any other year. For maximum WEP reduction amounts for workers with ELYs prior to 2020, see SSA, "Windfall Elimination Provision (WEP) Chart," https://www.ssa.gov/planners/retire/wep-chart.html.

The WEP applies to benefits payable to retired or disabled workers who meet the criteria above and to their eligible dependents; however, it does *not* apply to benefits payable to survivors of deceased insured workers. Groups of workers likely to be affected by the WEP include certain state and local government employees who are covered by alternative pension plans through their employers[13] and most permanent civilian federal employees hired before January 1, 1984, who are covered by the Civil Service Retirement System (CSRS).[14] The WEP does *not* apply to

- federal employees performing service on January 1, 1984, to which coverage was extended on that date by reason of the Social Security Amendments of 1983 (P.L. 98-21);
- employees of a nonprofit organization who were exempt from Social Security coverage on December 31, 1983, and who became covered for the first time on January 1, 1984, under P.L. 98-21;
- workers who attained age 62, became disabled, or were first eligible for a pension from noncovered employment before 1986;

"substantial coverage" is defined as 25% of the "old law" Social Security maximum taxable earnings base for each year in question. The old law maximum taxable earnings base refers to the earnings base that would have been in effect had the Social Security Amendments of 1977 (P.L. 95-216) not been enacted. In 2020, the old-law taxable earnings base is equal to $102,300; therefore, to earn credit for one year of substantial employment under the WEP, a worker would have to earn at least $25,575 in Social Security-covered employment. For the thresholds for previous years, see SSA, OCACT, "Old-Law Base and Year of Coverage," https://www.ssa.gov/oact/cola/yoc.html.

[13] See Department of the Treasury, Internal Revenue Service (IRS), *Federal-State Reference Guide*, IRS Publication 963 (Rev. 11-2014), https://www.irs.gov/pub/irs-pdf/p963.pdf.

[14] See CRS Report 98-810, *Federal Employees' Retirement System: Benefits and Financing*.

- workers who receive foreign pension payments after 1994 that are based on a totalization agreement with the United States;[15]
- workers whose only noncovered pension is based on earnings from noncovered domestic or foreign employment before 1957;[16] and
- railroad workers whose only noncovered pension is based on earnings from employment covered by the Railroad Retirement Act.[17]

The Number of People Affected by the WEP

According to the Social Security Administration (SSA), as of December 2019, about 1.9 million Social Security beneficiaries were affected by the WEP (**Table 4**). The overwhelming majority of those affected (about 94%) were retired workers. Approximately 3% of all Social Security beneficiaries (including disabled workers and dependent beneficiaries) and 4% of all retired-worker beneficiaries were affected by the WEP in December 2019.[18] Of retired workers affected by the WEP, approximately 57% were men (**Table 5**).

Table 4. Number of Social Security Beneficiaries in Current Payment Status with Benefits Affected by WEP, by State and Type of Beneficiary, December 2019

State	Total	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Total	**1,912,706**	**1,797,415**	**12,943**	**102,348**
Alabama	18,590	17,421	175	994
Alaska	12,051	11,529	59	463
Arizona	37,048	35,007	207	1,834
Arkansas	10,650	10,120	125	405
California	266,728	251,501	1,664	13,563
Colorado	65,659	62,439	781	2,439
Connecticut	20,196	19,390	99	707
Delaware	4,376	4,182	31	163
District of Columbia	7,488	7,246	52	190
Florida	105,764	99,561	584	5,619
Georgia	55,458	53,113	430	1,915
Hawaii	11,351	10,574	43	734
Idaho	8,699	8,165	67	467
Illinois	98,706	94,682	415	3,609

[15] *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 United States and a foreign country.

[16] The WEP does not apply in cases where the pension is based, in part, on noncovered military reserve duty before 1988 but after 1956.

[17] SSA, POMS, "RS 00605.362 Windfall Elimination Provision (WEP) Exceptions," November 1, 2019, https://secure.ssa.gov/poms.nsf/lnx/0300605362.

[18] Data on the total Social Security beneficiary and retired-worker populations used in these calculations are from SSA, OCACT, "Benefits Paid By Type Of Beneficiary," https://www.ssa.gov/oact/ProgData/icp.html.

State	Total	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Indiana	17,553	16,591	147	815
Iowa	8,395	8,003	65	327
Kansas	9,522	9,050	83	389
Kentucky	25,022	23,942	182	898
Louisiana	46,507	43,835	598	2,074
Maine	18,961	18,239	88	634
Maryland	47,808	45,572	279	1,957
Massachusetts	80,097	77,043	560	2,494
Michigan	22,365	20,990	196	1,179
Minnesota	16,813	16,090	77	646
Mississippi	9,832	9,300	92	440
Missouri	40,251	38,879	235	1,137
Montana	6,516	6,187	29	300
Nebraska	5,635	5,369	43	223
Nevada	34,363	33,016	233	1,114
New Hampshire	8,636	8,223	81	332
New Jersey	23,284	21,739	209	1,336
New Mexico	13,855	12,933	116	806
New York	33,190	30,854	249	2,087
North Carolina	31,418	29,940	191	1,287
North Dakota	2,352	2,247	11	94
Ohio	148,669	142,071	1,342	5,256
Oklahoma	17,645	16,682	154	809
Oregon	18,299	17,272	91	936
Pennsylvania	37,078	34,898	313	1,867
Rhode Island	5,935	5,702	46	187
South Carolina	19,362	18,388	126	848
South Dakota	4,000	3,842	21	137
Tennessee	21,752	20,651	135	966
Texas	189,031	179,306	1,176	8,549
Utah	14,183	13,157	91	935
Vermont	2,694	2,549	13	132
Virginia	49,184	46,405	173	2,606
Washington	34,257	31,939	167	2,151
West Virginia	6,373	5,920	70	383
Wisconsin	12,683	12,074	69	540
Wyoming	2,574	2,450	20	104
Outlying Areas and Foreign Countries	103,848	81,137	440	22,271

Source: CRS, based on unpublished data from Social Security Administration (SSA), Office of Research, Evaluation, and Statistics (ORES), Table B, January 2020.

Table 5. Number of Social Security Worker Beneficiaries in Current Payment Status with Benefits Affected by WEP, by Gender and Type of Beneficiary, December 2019

Gender	All Workers	Retired Workers	Disabled Workers
All Beneficiaries	1,810,358	1,797,415	12,943
Women	784,072	777,935	6,137
Men	1,026,286	1,019,480	6,806

Source: CRS, based on unpublished data from SSA, ORES, Table W01, January 2020.

For data on the number and share of Social Security beneficiaries affected by the WEP in December 2018, by state, see **Table A-1** and **Table A-2** in the **Appendix**, respectively.

Legislative History and Rationale

The WEP was enacted in 1983 as part of major amendments (P.L. 98-21) designed to shore up the financing of the Social Security program. 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.[19]

The purpose of the 1983 provision was to remove an unintended advantage that the regular Social Security benefit formula provided to certain retired or disabled worker-beneficiaries who were also entitled to pension benefits based on earnings from jobs not subject to the Social Security payroll tax. 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 career-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, because their few years of covered earnings were averaged over their entire working career to determine the average covered earnings on which their Social Security benefits were based. The WEP is intended to place affected workers in approximately the same position they would have been in had *all* their earnings been covered by Social Security.

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 pensions from noncovered work. The guarantee provision ensures that the reduction in Social Security benefits cannot exceed half of the pension from noncovered work, which protects people with small pensions from noncovered work. In addition, the impact of the WEP is reduced for workers who spend 21 to 29 years in Social Security-

[19] 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.

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.[20]

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 "Brown and Weisbenner") point out two reasons why the WEP can be regressive.[21] First, because the WEP adjustment is confined to the first bracket of the benefit formula ($960 in 2020), 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 2020 this threshold is $25,575 in Social Security-covered earnings); therefore, high earners are more likely to benefit from the provision that phases out the WEP for people with between 21 and 29 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 noncovered. 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.

Legislative Activity on the WEP in the 116th Congress

H.R. 141 (the Social Security Fairness Act of 2019) and S. 521 were introduced by Representative Rodney Davis on January 3, 2019, and Senator Sherrod Brown on February 14, 2019, respectively. The legislation would repeal the WEP and 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.[22] The elimination of the WEP and GPO would apply to benefits

[20] 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.

[21] 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, http://business.illinois.edu/weisbenn/RESEARCH/PAPERS/JPEF_Brown_Weisbenner.pdf.

[22] See CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*. See also CRS In Focus IF10203, *Social Security: The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO)*.

payable for months after December 2019. In 2016, SSA's Office of the Chief Actuary (OCACT) projected that repealing both the WEP and the GPO would reduce the long-range actuarial balance (i.e., increase the net long-term cost) of the combined Social Security trust funds by 0.13% of taxable payroll.[23] The OCACT estimated that repealing only the WEP would reduce the long-range actuarial balance of the combined trust funds by 0.08% of taxable payroll.[24]

S. 710 (the Social Security Fairness for Firefighters and Police Officers Act) was introduced by Senator Pat Toomey on March 7, 2019. The bill would exempt certain firefighters and police officers with five years of qualified service from the WEP and the GPO.[25]

Past legislation has suggested replacing the WEP with a new proportional formula for new beneficiaries. The proportional formula applies the regular Social Security benefit formula to all past earnings from covered and noncovered employment. The resulting benefit would then be reduced by the ratio of career-average earnings from covered employment to career-average earnings from both covered and noncovered employment (i.e., combined earnings). Based on the estimate from OCACT, among all current beneficiaries in 2018, about 69% of those affected by the WEP would receive an increase in Social Security benefits using the proportional formula, and the remaining 31% would receive a lower benefit. In addition, 13.5 million beneficiaries who are not affected by the current WEP would receive a lower benefit using the proportional formula.[26] Most workers who are not affected by the current WEP but would be affected by the proportional formula are those with noncovered employment who have 30 or more years of substantial covered earnings, or those with noncovered employment who are not receiving noncovered pension benefits; both groups are exempt from the WEP under current law. To protect future beneficiaries from further benefit reduction compared with the current law, the 2019 legislation based on the proportional formula generally attempts to hold beneficiaries harmless to a certain degree by providing the higher benefit of the current-law WEP or the proportional formula.

On July 24, 2019, H.R. 3934 (the Equal Treatment of Public Servants Act) was introduced by Representative Kevin Brady. The legislation would replace the WEP with the new proportional formula for individuals who would become eligible for OASDI benefits in 2022 or later. Individuals becoming eligible between 2022 and 2060 would receive the higher of their benefit under the current-law WEP or the proportional formula. The proposal would also provide a rebate payment starting in 2022 for workers (up to $100 per month) and their dependents (up to $50 per month) affected by the current WEP. In 2019, OCACT estimated that the legislation would increase program cost by about $23.1 billion (mainly from the rebate) over the period 2020 through 2029, and would have no significant effect on the Social Security trust funds' long-range (75 years) actuarial balance.[27]

H.R. 4540 (the Public Servants Protection and Fairness Act) was introduced by Representative Richard E. Neal on September 27, 2019. Similar to H.R. 3934, the legislation would replace the

[23] 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 was based on the intermediate assumptions of the 2015 Social Security trustees report. *Taxable payroll* is the total amount of earnings in the economy that is subject to Social Security payroll and self-employment taxes (with some adjustments).

[24] Informal cost estimate provided to CRS by OCACT on June 14, 2018. OCACT estimated that repealing only the GPO would reduce the long-range actuarial balance of the combined trust funds by 0.06% of taxable payroll.

[25] Qualified service is defined in 34 U.S.C. §10284.

[26] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Kevin Brady, U.S. House, July 24, 2019, https://www.ssa.gov/oact/solvency/KBrady_20190724.pdf. The projections are based on the intermediate assumptions of the 2019 Social Security trustees report.

[27] Ibid.

WEP with the new proportional formula for individuals who would become eligible for OASDI benefits in 2022 or later. However, unlike H.R. 3934, all individuals becoming eligible on and after 2022 would receive the higher of their benefit under the current-law WEP or the proportional formula. Also, as under current law, workers with 30 or more years of substantial earnings and those not receiving noncovered pension benefits would be exempt from the WEP. The proposal would provide a rebate payment starting nine months after enactment for retired-worker and disabled-worker beneficiaries affected by the current WEP (up to $150 per month), but not for their dependents. The proposal's cost would be covered by transfers from general revenues. In 2019, OCACT estimated that the legislation would increase program expenditures by about $34.3 billion (mainly from the rebate) between 2020 and 2029, which would be reimbursed from the General Fund of the U.S. Treasury. In the long run (75 years), the projected program cost would increase by an amount equal to 0.02% of taxable payroll, and the projected program income would increase by the same amount with transfers from the General Fund, thus having no significant effect on the combined trust funds' actuarial balance.[28]

In addition, H.R. 5529 (the Social Security Equity Act of 2019) was introduced by Representative Adam Smith on December 19, 2019. The bill would change the current-law WEP formula such that the WEP benefit reduction for most affected workers would be lower relative to current law.[29]

At the time of this report, Congress has not acted on any of the legislative proposals discussed above.

[28] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Richard Neal, U.S. House, September 30, 2019, https://www.ssa.gov/oact/solvency/RNeal_20190930.pdf. The projections are based on the intermediate assumptions of the 2019 Social Security trustees report.

[29] H.R. 5529 would revise the current WEP formula for the PIA computation to (1) lower from 30 to 25 the number of years of coverage required for exemption from the WEP; (2) alter the determination of partial exemptions for those who have more than 20 but less than 25 years of coverage; and (3) reduce the dollar amount required for a year of substantial coverage.

Appendix. WEP Affected Beneficiaries, by State

Table A-1. Number of Social Security Beneficiaries in Current Payment Status with Benefits Affected by WEP, by State and Type of Beneficiary, December 2018

State	Total	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Total	**1,863,084**	**1,747,212**	**13,345**	**102,527**
Alabama	18,699	17,464	195	1,040
Alaska	11,518	10,994	74	450
Arizona	35,517	33,484	226	1,807
Arkansas	10,643	10,106	125	412
California	259,059	243,863	1,719	13,477
Colorado	62,850	59,773	751	2,326
Connecticut	19,609	18,835	108	666
Delaware	4,284	4,096	33	155
District of Columbia	7,611	7,356	58	197
Florida	102,798	96,542	636	5,620
Georgia	54,100	51,726	421	1,953
Hawaii	11,088	10,302	40	746
Idaho	8,291	7,780	63	448
Illinois	96,573	92,510	444	3,619
Indiana	17,116	16,167	136	813
Iowa	8,361	7,965	59	337
Kansas	9,469	8,974	91	404
Kentucky	24,484	23,347	194	943
Louisiana	44,490	41,729	612	2,149
Maine	18,300	17,558	99	643
Maryland	47,965	45,628	295	2,042
Massachusetts	76,608	73,549	564	2,495
Michigan	21,967	20,583	201	1,183
Minnesota	16,965	16,173	95	697
Mississippi	9,788	9,217	102	469
Missouri	39,336	37,917	252	1,167
Montana	6,387	6,061	27	299
Nebraska	5,587	5,325	40	222
Nevada	32,754	31,432	216	1,106
New Hampshire	8,367	7,945	84	338
New Jersey	23,089	21,527	236	1,326
New Mexico	13,666	12,698	127	841
New York	33,052	30,681	263	2,108
North Carolina	30,966	29,464	198	1,304
North Dakota	2,387	2,271	13	103

State	Total	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Ohio	143,576	136,980	1,304	5,292
Oklahoma	17,585	16,561	159	865
Oregon	17,921	16,887	99	935
Pennsylvania	36,898	34,662	325	1,911
Rhode Island	5,780	5,551	46	183
South Carolina	19,075	18,099	132	844
South Dakota	3,967	3,814	18	135
Tennessee	21,332	20,177	141	1,014
Texas	181,273	171,528	1,189	8,556
Utah	14,033	12,985	92	956
Vermont	2,713	2,557	14	142
Virginia	49,362	46,430	213	2,719
Washington	33,610	31,254	197	2,159
West Virginia	6,337	5,861	74	402
Wisconsin	12,632	11,987	74	571
Wyoming	2,556	2,437	14	105
Outlying Areas and Foreign Countries	100,690	78,400	457	21,833

Source: CRS, based on unpublished data from SSA, ORES, Table B, February 2019.

Table A-2. Percentage of Social Security Beneficiaries in Current Payment Status Affected by the WEP, by State and Type of Beneficiary, December 2018

State	All Beneficiaries	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Total	3.0%	4.0%	0.2%	1.5%
Alabama	1.6%	2.5%	0.1%	0.8%
Alaska	11.4%	15.3%	0.6%	3.7%
Arizona	2.6%	3.4%	0.1%	1.4%
Arkansas	1.5%	2.3%	0.1%	0.5%
California	4.3%	5.7%	0.3%	2.1%
Colorado	7.2%	9.4%	0.8%	2.7%
Connecticut	2.9%	3.8%	0.1%	1.1%
Delaware	2.0%	2.6%	0.1%	0.8%
District of Columbia	9.2%	12.8%	0.4%	2.6%
Florida	2.2%	2.8%	0.1%	1.3%
Georgia	3.0%	4.2%	0.2%	1.0%
Hawaii	4.1%	4.9%	0.2%	3.2%
Idaho	2.4%	3.1%	0.1%	1.3%
Illinois	4.3%	5.8%	0.2%	1.6%
Indiana	1.3%	1.8%	0.1%	0.6%

State	All Beneficiaries	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Iowa	1.3%	1.7%	0.1%	0.6%
Kansas	1.7%	2.3%	0.1%	0.7%
Kentucky	2.5%	3.9%	0.1%	0.8%
Louisiana	4.9%	7.7%	0.4%	1.7%
Maine	5.3%	7.5%	0.2%	1.9%
Maryland	4.8%	6.3%	0.2%	2.1%
Massachusetts	6.0%	8.4%	0.3%	1.9%
Michigan	1.0%	1.4%	0.1%	0.5%
Minnesota	1.6%	2.1%	0.1%	0.7%
Mississippi	1.5%	2.2%	0.1%	0.6%
Missouri	3.0%	4.3%	0.1%	0.9%
Montana	2.7%	3.5%	0.1%	1.4%
Nebraska	1.6%	2.1%	0.1%	0.7%
Nevada	6.1%	7.9%	0.3%	2.4%
New Hampshire	2.7%	3.7%	0.2%	1.1%
New Jersey	1.4%	1.8%	0.1%	0.8%
New Mexico	3.1%	4.3%	0.2%	1.7%
New York	0.9%	1.2%	0.1%	0.6%
North Carolina	1.5%	2.0%	0.1%	0.7%
North Dakota	1.8%	2.3%	0.1%	0.8%
Ohio	6.1%	8.7%	0.4%	2.1%
Oklahoma	2.2%	3.2%	0.1%	1.0%
Oregon	2.1%	2.6%	0.1%	1.2%
Pennsylvania	1.3%	1.8%	0.1%	0.7%
Rhode Island	2.6%	3.5%	0.1%	0.9%
South Carolina	1.7%	2.3%	0.1%	0.8%
South Dakota	2.2%	2.9%	0.1%	0.8%
Tennessee	1.5%	2.1%	0.1%	0.7%
Texas	4.3%	6.1%	0.2%	1.6%
Utah	3.5%	4.6%	0.2%	1.8%
Vermont	1.8%	2.4%	0.1%	1.0%
Virginia	3.2%	4.3%	0.1%	1.8%
Washington	2.5%	3.2%	0.1%	1.7%
West Virginia	1.3%	2.0%	0.1%	0.6%
Wisconsin	1.0%	1.3%	0.0%	0.5%
Wyoming	2.3%	3.0%	0.1%	1.0%
Outlying Areas and Foreign Countries	11.6%	15.7%	0.3%	15.9%

Source: CRS analysis of data from the following sources: SSA, ORES, Table B, February 2019 (unpublished); and SSA, ORES, Congressional Statistics, 2018, at https://www.ssa.gov/policy/docs/factsheets/cong_stats/2018/index.html.

Notes: The column "All Beneficiaries" includes survivor beneficiaries who are not subject to the WEP. The row "Outlying Areas and Foreign Countries" includes a small number of Social Security beneficiaries whose state or area is unknown.

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