



## SOCIAL SECURITY

The Commissioner

July 17, 2003

The Honorable J. Dennis Hastert  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed for consideration of the Congress is the Administration's draft bill to make amendments to the Old-Age, Survivors, and Disability Insurance (OASDI) and the Supplemental Security Income (SSI) programs. A section-by-section description of all seven proposals is also enclosed with this letter. However, I would like to point out four proposals that would improve the integrity of the programs, simplify the administration of the SSI program, and assist children of U.S. military service personnel.

Section 102 of the draft bill would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision. This proposal would close a loophole in the law that allows certain individuals who have worked in government employment not covered by Social Security to avoid the intended offset in their spouse's or widow(er)'s benefits by working as little as 1 day in covered government employment before retiring.

Sections 202 and 203 would address SSI program issues relating to military personnel. Section 202 would expand SSI eligibility to include blind and disabled children who are born to, or who suffer an onset of blindness or disability while residing with, parents who are military personnel stationed outside the United States. Currently, children of military personnel stationed overseas may be eligible for SSI if they received SSI while they were in the United States. Such an extension would eliminate the current bar to program participation by blind or disabled children who, but for bad timing, would otherwise be eligible for program benefits.

Section 203 would result in most cash military compensation being treated as earned income. Currently, some military compensation is treated as unearned income and, as such, is subject to less generous income disregards than compensation treated as earned income. The proposal would slightly increase the SSI benefits of many of the estimated 2,500-3,000 disabled children whose parents are in the military. The proposal also would simplify the program in that SSA claims representatives would no longer have to perform time-consuming manual analysis of military pay records to determine when and how to categorize military pay for SSI purposes.

An immediate objective of President Bush's Management Plan is to reduce erroneous SSI payments, a goal that SSA fully supports. SSA has a number of ongoing efforts designed to prevent, identify, and correct erroneous payments, and continues to seek additional ways to protect the integrity of the SSI program. The proposal in section 204 of the draft bill for conducting SSI pre-effectuation reviews in 50 percent of disability allowances of adult cases in order to ensure accurate SSI disability determinations would yield SSI savings over 10 years of \$470 million and additional significant savings in the Medicaid program. By the 10<sup>th</sup> year after enactment, the pre-effectuation reviews would have identified and prevented erroneous payments in an estimated 24,000 incorrect SSI disability determinations.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and its enactment would be in accord with the program of the President. We urge the Congress to give the draft bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Richard B. Cheney, President of the Senate.

Sincerely,

/s/

Jo Anne B. Barnhart

Enclosures



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Sincerely,

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## **Section-By-Section Descriptions of the "Social Security Amendments of 2003"**

### SHORT TITLE; REFERENCES TO ACT; TABLE OF CONTENTS

Section 1 provides that upon enactment the bill may be cited as the "Social Security Amendments of 2003." References in the bill refer to the Social Security Act unless otherwise specified. This section also includes the table of contents.

### TITLE I--PROVISIONS RELATED TO THE SOCIAL SECURITY PROGRAM

#### Post-1956 Military Wage Credits

Section 101 would strengthen the fiscal integrity of the Social Security trust funds by transferring, from amounts in the general fund to the trust funds, the Old-Age, Survivors, and Disability Insurance (OASDI) and Hospital Insurance (HI) taxes owed for Military Service Wage Credits (MSWC) provided under section 229 of the Social Security Act. This transfer would constitute a full and final accounting of all OASDI and HI taxes owed under section 229. Section 101 also includes conforming amendments to section 229 to reflect the termination of wage credits, as enacted in the FY 2002 Department of Defense Appropriations (Public Law 107-117), and the repeal of annual appropriations and related adjustments to compensate the Social Security trust funds for MSWC.

Public Law 107-117 eliminated the crediting of MSWC under section 229 of the Social Security Act effective for wages for active duty military service after December 31, 2001. However, prior to January 1, 2002, members of the uniformed services are deemed to be paid amounts greater than their actual taxable wages. The enactment of this provision would provide the Social Security and Medicare trust funds the required reimbursement for both the employer's and employee's share of FICA tax equivalents on the amounts of MSWC that were given for calendar years 2000 and 2001 (including interest), as well as relatively small adjustments for prior years.

#### 60-Month Period of Employment Requirement for Application of the Government Pension Offset (GPO) Exemption

Section 102 would require that State and local government workers be covered by Social Security throughout their last 5 years of employment with the government entity in order to be exempt from the government pension offset provision. The GPO reduces the Social Security spousal and/or survivor benefit by an amount equal to two-thirds of the amount of a person's government pension based on work not covered by Social Security. For this purpose, the pension is considered to be based on noncovered employment if the last day of government employment is not covered by Social Security.

The present "last day covered employment" rule acts as an exemption to the GPO. It has the unintended result of allowing certain workers eligible for a government pension based on noncovered State and/or local government employment to also receive full Social Security spouse's and/or surviving spouse's benefits by working only 1 day in covered employment. By eliminating the "last day test" and replacing it with a requirement that an individual's last 5 years of government employment must be covered, the provision would more equitably apply the GPO to noncovered government workers. The provision would also make the GPO rules consistent for all noncovered government workers whether Federal or State and local.

The provision would be effective for applications filed after the month of enactment. However, the change would not apply to applications filed after the month of enactment if (1) the worker's last day of government employment occurs before the end of the 90-day period following enactment or (2) such last day occurs after the 90-day period and such employment was covered by Social Security during the 90-day period as well as subsequent to that period.

## TITLE II--PROVISIONS RELATED TO THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM

### Exclusion From Income For Certain Infrequent Or Irregular Income And Certain Interest Or Dividend Income

Section 201 would exclude from the determination of an individual's income all interest and dividend income earned on countable liquid resources. This section also would amend the infrequent and irregular income exclusion to exclude the first \$60 per calendar quarter of unearned income and the first \$30 per calendar quarter of earned income which is received irregularly and infrequently. Currently, infrequent and irregular unearned income of less than \$20 per month and earned income of less than \$10 per month is excluded. The proposed change would permit an individual to receive small gifts, or payment for infrequent jobs such as babysitting, without worrying that fairly insignificant amounts of income would adversely affect his or her benefits. For example, under current law, a \$25 cash birthday gift would be counted as income to the individual. Under this provision, such relatively insignificant gifts would be totally excluded.

The provision would be effective with respect to benefits paid for the first month of the first calendar quarter that begins more than 90 days after the date of enactment.

### Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled After Their Military Parents Are Stationed Overseas

Section 202 would extend the current law exception for payment of benefits to blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas or first applied for benefits overseas. This provision would be a reasonable expansion of law, which protects a specific, limited group of persons who reside outside the United States only because their parents are serving their country by being stationed overseas. Such extension would eliminate the disparate treatment with regard to SSI eligibility between blind and disabled children of military personnel overseas who were eligible for SSI

before they went overseas and those who were born or became blind or disabled while they are overseas with their parents.

The provision would be effective for benefits payable for months after enactment but only on the basis of applications filed after enactment.

#### Treatment of Uniformed Service Compensation

Section 203 would treat most cash military compensation as wages and, thus, as earned income. The distinction between earned and unearned income is important in determining the amounts to be deemed from a parent or spouse in military service. Higher disregard amounts apply to earned income yielding less countable income and, often, higher SSI benefits. The provision would treat cash military compensation and civilian wages alike, and thus eliminate the present unfair and disadvantageous treatment of cash military compensation other than basic pay under SSI. However, allowances for military and privatized housing would continue to be counted as unearned income subject to the rules for in-kind support and maintenance. In such cases, the full amount of a service member's housing allowance is deducted directly from his or her pay and paid to the landlord of the privatized housing by military payroll.

Further, the provision addresses the use of available leave and earnings statements for purposes of determining amounts of monthly deemed income for a spouse or child of a person in the military service. The provision would provide SSA with the authority to treat the compensation reported on a monthly leave and earnings statement issued by the military reflecting compensation *earned* in the prior month as compensation *received* in the prior month. If implemented, the provision would be an administrative simplification in that it would eliminate the need to review multiple payment statements from different periods.

The provision is effective with respect to benefits payable for months beginning at least 90 days after the date of enactment.

#### Review of State Agency Blindness and Disability Determinations

Section 204 of the draft bill would require the Commissioner of Social Security to conduct reviews of a specific percentage of SSI initial disability and blindness cases of individuals aged 18 and older that were allowed by State disability determination agencies. The reviews would be done to ensure the accuracy of such allowances, and would be completed before the individuals were awarded benefits. The provision would be substantially the same as the current-law Social Security disability pre-effectuation review requirement. That is, the Commissioner would be required to review at least 50 percent of initial State disability determination agency allowances.

The provision would be phased in as follows. For fiscal year 2004, the Commissioner would be required to review 25 percent of the allowances made after March 31<sup>st</sup> or, if later, the date of the bill's enactment. Beginning in fiscal year 2005 and thereafter, 50 percent of all allowances would be reviewed.

### Exception to Retrospective Monthly Accounting for Nonrecurring Income

Section 205 would count one-time, nonrecurring income only for the month that the income is received and not for any other month during the transition to retrospective monthly accounting during the first 3 months of an individual's SSI eligibility. Currently under retrospective monthly accounting, income in the first month of SSI eligibility is counted in determining the amount of benefit in the month that it is received and the following 2 months. In some instances, this situation results in more income being counted than is actually received. Over the first 3 months of SSI eligibility for these individuals, SSI benefits are reduced \$3 for each \$1 of countable income. The provision would eliminate triple counting of one-time, nonrecurring income, which would more accurately and fairly reflect an individual's financial means. The provision would also delete an obsolete provision in current law relating to the computation of benefits in the month an individual files an initial application for SSI.

The provision would be effective with respect to benefits payable for months that begin on or after 1 year following enactment.

A B I L L

To amend the Social Security Act in support of the President's Budget for Fiscal Year 2004 respecting the social security and supplemental security income programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO ACT; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Social Security Amendments of 2003".

(b) References to Act.--Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(c) Table of Contents.--The table of contents is as follows:  
Sec. 1. Short title; references to Act; table of contents.

TITLE I -- PROVISIONS RELATED TO  
THE SOCIAL SECURITY PROGRAM

Sec. 101. Post-1956 military wage credits.  
sec. 102. 60-Month period of employment requirement for application of the government pension offset exemption.

TITLE II -- PROVISIONS RELATED TO THE  
SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 201. Exclusion from income for certain infrequent or irregular income, and certain interest or dividend income.  
Sec. 202. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

- Sec. 203. Treatment of uniformed service compensation.  
Sec. 204. Review of State agency blindness and disability determinations.  
Sec. 205. Exception to retrospective monthly accounting for nonrecurring income.

TITLE I -- PROVISIONS RELATED TO  
THE SOCIAL SECURITY PROGRAM

SEC. 101. POST-1956 MILITARY WAGE CREDITS.

(a) Payment to the Social Security Trust Funds in Satisfaction of Outstanding Obligations Related to Pre-2002 Military Wage Credits.--On July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury not otherwise appropriated--

(1) \$624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

(2) \$105,379,671 to the Federal Disability Insurance Trust Fund; and

(3) \$173,306,134 to the Federal Hospital Insurance Trust Fund.

(b) Conforming Amendments.--

(1) Repeal of Authority for Annual Appropriations and Related Adjustments to Compensate the Social Security Trust Funds for Military Wage Credits.--

(A) Section 229 (42 U.S.C. 429) is amended--

(i) by striking "(a)"; and

(ii) by striking subsection (b).

(2) Amendment to Reflect the Termination of Wage Credits Effective After Calendar Year 2001 by Section 8134 of Public Law 107-117.--Section 229(2) (42 U.S.C. 429(2))

(as redesignated by paragraph (1)) is amended by inserting "and before 2002" after "1977".

SEC. 102. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF THE GOVERNMENT PENSION OFFSET EXEMPTION.

(a) Wife's Insurance Benefits.--Section 202(b)(4)(A) (42 U.S.C. 402(b)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service prior to".

(b) Husband's Insurance Benefits.--Section 202(c)(2)(A) (42 U.S.C. 402(c)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service prior to".

(c) Widow's Insurance Benefits.--Section 202(e)(7)(A) (42 U.S.C. 402(e)(7)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service prior to".

(d) Widower's Insurance Benefits.--Section 202(f)(2)(A) (42 U.S.C. 402(f)(2)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service prior to".

(e) Mother's and Father's Insurance Benefits.--Section 202(g)(4)(A) (42 U.S.C. 402(g)(4)(A)) is amended by striking "if, on" and inserting "if, during any portion of the last 60 months of such service prior to".

(f) Effective Date.-- The amendments made by this section shall apply with respect to applications for benefits under

title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)--

(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted 'employment' as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such 'employment'.

TITLE II -- PROVISIONS RELATED TO THE  
SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 201. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR  
IRREGULAR INCOME, AND CERTAIN INTEREST OR DIVIDEND  
INCOME.

(a) In General.--

(1) Infrequent or irregular income.--Section 1612(b)(3)

(42 U.S.C. 1382a(b)(3)) is amended to read as follows:

"(3) in any calendar quarter, the first--

"(A) \$60 of unearned income, and

"(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included.".

(2) Interest or Dividend Income.--Section 1612(b)

(42 U.S.C. 1382a(b)) is further amended--

(A) by striking "and" at the end of paragraph (21);

(B) by striking the period at the end of paragraph (22) and inserting "; and"; and

(C) by adding at the end a new paragraph as follows:

"(23) interest or dividend income from resources--

"(A) not excluded under section 1613(a), or

"(B) excluded pursuant to federal law other than section 1613(a).".

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 202. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) In General.--Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended--

(1) by inserting "and" after "citizen of the United States,"; and

(2) by striking ", and who," and all that follows and inserting a period.

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of the enactment of this Act, but only on the basis of an application filed after such date.

#### SEC. 203. TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) Treatment of Special Pay and Allowances.--

(1) Section 1612(a)(1)(A) (42 U.S.C. 1382a(a)(1)(A)) is amended by inserting "(and, in the case of cash remuneration paid for service as a member of a uniformed service (other than payments described in paragraph (2)(H)), without regard to the limitations contained in section 209(d))" immediately before the semi-colon.

(2) Section 1612(a)(2) (42 U.S.C. 1382a(a)(2)) is amended--

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; and"; and

(C) by adding at the end the following new

subparagraph:

"(H) payments to or on behalf of a member of a uniformed service for housing of such member (and his or her dependents, if any) on a facility of a uniformed service, including payments provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, which shall be deemed to be support and maintenance in-kind subject to the provisions of subparagraph (A).".

(b) Treatment of Pay as Received When Earned.--Section 1611(c) (42 U.S.C. 1382(c)) is amended by adding at the end the following new paragraph:

"(9) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it is earned, if the Commissioner determines that such treatment would promote the economical and efficient administration of the program authorized by this title.".

(c) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months beginning at least 90 days after the date of the enactment of this Act.

SEC. 204. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 (42 U.S.C. 1383(b)) is amended by adding at the end the following:

"(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled. Any review by the Commissioner of Social Security of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

"(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review--

"(i) with respect to fiscal year 2004, at least 25 percent of all determinations referred to in paragraph (1) that are made in such year after March 31, thereof or, if later, the date of the enactment of this Act; and

"(ii) with respect to fiscal years after 2004, at least 50 percent of all such determinations that are made in each such year.

"(B) In conducting reviews pursuant to subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review those determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect."

SEC. 205. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR

## NONRECURRING INCOME.

(a) In General.--Section 1611(c) (42 U.S.C. 1382(c)) (as previously amended by section 203(b) of this Act) is further amended by adding at the end the following new paragraph:

"(10)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

"(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring income."

(b) Deletion of Obsolete Material.--Section 1611(c)(2)(B) (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

"(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month."

(c) Effective Date.--The amendments made by this section

shall be effective with respect to benefits payable for months that begin on or after 1 year following the date of the enactment.