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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 cash benefits 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.

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 2022, about 2.0 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 2023, a worker earns one credit for each $1,640 of covered earnings, up to a maximum of four credits for covered earnings of $6,560 or more. Earnings credits are also called *quarters of coverage*. See Social Security Administration (SSA), *How You Earn Credits*, Publication No. 05-10072, 2023, https://best.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 2023, the PIA is determined as follows in **Table 1**.

Table 1. Social Security Benefit Formula for Workers Who First Become Eligible in 2023

Factor	Average Indexed Monthly Earnings (AIME)
90%	of the first $1,115, plus
32%	of AIME over $1,115 and through $6,721 (if any), plus
15%	of AIME over $6,721 (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. This results in these workers having AIMEs that are similar to those of 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]

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[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 2023 is different from the benefit formula for a worker with an ELY in any other year. For bend point amount for years prior to 2023, 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

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 2023 for someone with a 40% factor.

Table 2. Hypothetical Scenario: PIA for a Worker with AIME of $1,800 Who Becomes Eligible in 2023 and Has 20 Years of Substantial Coverage

Regular Formula		WEP Formula	
90% of first $1,115	$1,003.50	*40%* of first $1,115	$446.00
32% of earnings over $1,115 and through $6,721	219.20	32% of earnings over $1,115 and through $6,721	219.20
15% over $6,721	0.00	15% over $6,721	0.00
Total after rounding	**$1,222.70**	**Total after rounding**	**$665.20**

Source: CRS.

Note: PIA = Primary Insurance Amount. AIME = Average Indexed Monthly Earnings. By law, the PIA is rounded down to nearest 10 cents.

In this scenario, the monthly benefit is $557.50 lower under the WEP than under the regular benefit formula ($1,222.70 *minus* $665.20). 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 $1,115, the WEP reduction remains a flat $557.50 per month. For example, if the worker had an AIME of $4,000 instead of $1,800, the WEP reduction would still be $557.50 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

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. 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 $1,800 and a monthly benefit of $1,222.70 under the regular benefit formula in 2023, the WEP reduction of $557.50 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 $1,926.70 under the 2023 regular benefit formula, and the same WEP reduction of $557.50 per month would represent a 29% reduction in this worker's monthly benefit amount.

formula for workers with 21 to 29 years of substantial covered employment, as shown in **Table 3**.[12]

Table 3. Maximum WEP Reduction for Workers Who Become Eligible in 2023, 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 2023[a] ($):											
	557.5	501.8	446.0	390.3	334.5	278.8	223.0	167.3	111.5	55.8	0.0

Source: CRS analysis.

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 reduction 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 2023 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 2023, see SSA, "Windfall Elimination Provision (WEP) Chart," https://www.ssa.gov/planners/retire/wep-chart.html.

Types of Workers Affected by the WEP

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

[12] For determining years of coverage after 1978 for individuals with pensions from noncovered employment, *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 2023, the old law taxable earnings base is equal to $118,800. Therefore, to earn credit for one year of substantial employment under the WEP, a worker would have to earn at least $29,700 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. 7-2020), https://www.irs.gov/pub/irs-pdf/p963.pdf.

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

- 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;
- 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 2022, about 2.0 million Social Security beneficiaries were affected by the WEP (**Table 4**). The overwhelming majority of those affected (about 95%) 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 2022.[18] Of retired workers affected by the WEP, approximately 54% 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 2022

		Type of Beneficiary		
State	Total	Retired Workers	Disabled Workers	Spouses and Children
Total	**2,013,310**	**1,910,130**	**11,870**	**91,310**
Alabama	17,594	16,688	154	752
Alaska	13,221	12,729	59	433
Arizona	39,074	37,314	189	1,571
Arkansas	10,694	10,246	111	337
California	283,270	269,673	1,556	12,041
Colorado	73,103	70,403	736	1,964
Connecticut	21,790	21,134	97	559

[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 10, 2022, 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
Delaware	4,586	4,425	26	135
District of Columbia	6,932	6,743	36	153
Florida	109,737	104,171	541	5,025
Georgia	57,854	55,901	347	1,606
Hawaii	11,671	11,023	37	611
Idaho	9,737	9,265	60	412
Illinois	102,391	99,068	356	2,967
Indiana	17,848	17,058	134	656
Iowa	8,319	8,022	52	245
Kansas	9,552	9,170	77	305
Kentucky	25,601	24,735	181	685
Louisiana	52,155	49,704	566	1,885
Maine	20,498	19,909	81	508
Maryland	45,942	44,195	195	1,552
Massachusetts	88,974	86,282	573	2,119
Michigan	22,966	21,810	181	975
Minnesota	16,349	15,826	70	453
Mississippi	9,535	9,121	70	344
Missouri	41,904	40,826	212	866
Montana	6,688	6,409	30	249
Nebraska	5,643	5,425	39	179
Nevada	37,905	36,670	209	1,026
New Hampshire	9,364	9,017	80	267
New Jersey	22,793	21,477	187	1,129
New Mexico	14,067	13,331	111	625
New York	32,062	30,056	212	1,794
North Carolina	31,736	30,489	157	1,090
North Dakota	2,339	2,252	10	77
Ohio	161,739	155,906	1,388	4,445
Oklahoma	17,166	16,389	147	630
Oregon	18,805	18,008	69	728
Pennsylvania	35,955	34,215	252	1,488
Rhode Island	6,305	6,114	52	139
South Carolina	19,597	18,796	98	703
South Dakota	3,959	3,836	14	109
Tennessee	22,626	21,674	134	818
Texas	208,368	199,750	1,115	7,503
Utah	14,373	13,507	74	792
Vermont	2,722	2,607	10	105
Virginia	47,152	44,985	122	2,045
Washington	35,150	33,231	138	1,781

State	Total	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
West Virginia	6,120	5,756	57	307
Wisconsin	12,790	12,306	59	425
Wyoming	2,727	2,633	17	77
Outlying Areas and Foreign Countries	113,862	89,850	392	23,620

Source: CRS, based on unpublished data from Social Security Administration (SSA), Office of Research, Evaluation, and Statistics (ORES), Table B, January 2023.

Table 5. Number of Social Security Worker Beneficiaries in Current Payment Status with Benefits Affected by WEP, by Gender and Type of Beneficiary, December 2022

Gender	All Workers	Retired Workers	Disabled Workers
All Beneficiaries	**1,922,000**	**1,910,130**	**11,870**
Women	883,225	877,473	5,752
Men	1,038,775	1,032,657	6,118

Source: CRS, based on unpublished data from SSA, ORES, Table W01, January 2023. For data on the share of Social Security beneficiaries affected by the WEP in December 2021, by state, see **Table A-1** and **Table A-2** in the **Appendix**.

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 and few years in covered jobs. 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.

[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.

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–covered work and is eliminated for people who spend 30 years or more in Social Security–covered work.

Arguments Against the WEP

Some opponents of the WEP believe the provision is unfair because it substantially reduces a benefit that certain 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 career-average earnings in the benefit formula ($1,115 in 2023), it causes a proportionally larger reduction in benefits for workers with lower AIMEs and benefit amounts than for others. Second, a high earner is more likely than a low earner to cross the "substantial work" threshold for accumulating years of covered earnings (in 2023 this threshold is $29,700 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.[22] 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.

[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.

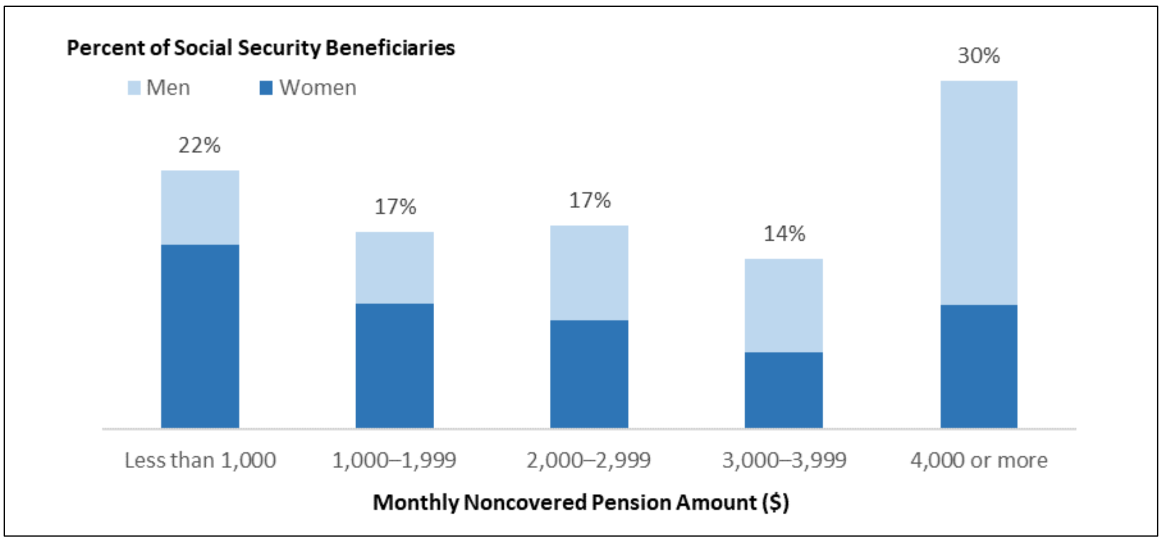
[22] For more information, see CRS Report R46194, *The Windfall Elimination Provision (WEP) in Social Security: Comparing Current Law with Proposed Proportional Formulas*.

Noncovered Pensions for Beneficiaries Affected by the WEP

The WEP applies to Social Security beneficiaries who are entitled to (i.e., receiving) a pension based on earnings that were not covered by Social Security. SSA periodically provides data on those noncovered pension amounts for Social Security beneficiaries affected by the WEP. **Figure 1** shows the distribution of Social Security WEP-affected beneficiaries who first became eligible for benefits in 2019, by noncovered pension amount and gender. As of December 2022, about 22% of those beneficiaries received a noncovered pension amount of less than $1,000 per month, approximately 48% received a monthly amount between $1,000 and $3,999, and 30% received a monthly amount of $4,000 or more. Among those WEP-affected beneficiaries, women tended to have a lower noncovered pension amount than men on average.

Figure 1. Distribution of WEP-Affected Social Security Beneficiaries by Monthly Noncovered Pension Amount and Gender, December 2022

Among Social Security beneficiaries with first eligibility in 2019



Source: CRS, based on unpublished data from SSA's ORES, Table W12, January 2023.

Notes: Data reflects beneficiaries for whom noncovered pension amounts are available. The monthly pension amount represents the noncovered government pension amount at the time of initial filing for Social Security benefits.

A worker who split his or her career between Social Security–covered and noncovered jobs may receive both Social Security retired-worker benefits (subject to the WEP) and a noncovered pension. In December 2022, among all Social Security worker beneficiaries who were affected by the WEP, about 82% had 20 or fewer YOCs (substantial covered earnings under Social Security).[23] Usually, the longer the individual worked in noncovered employment, the shorter the employment in covered jobs (provided that the number of working years a person can work is relatively stable). In this case, the worker would be likely to receive a relatively larger noncovered pension amount and a smaller Social Security benefit. In December 2022, among WEP-affected beneficiaries who first became eligible for Social Security in 2019, about 31% of

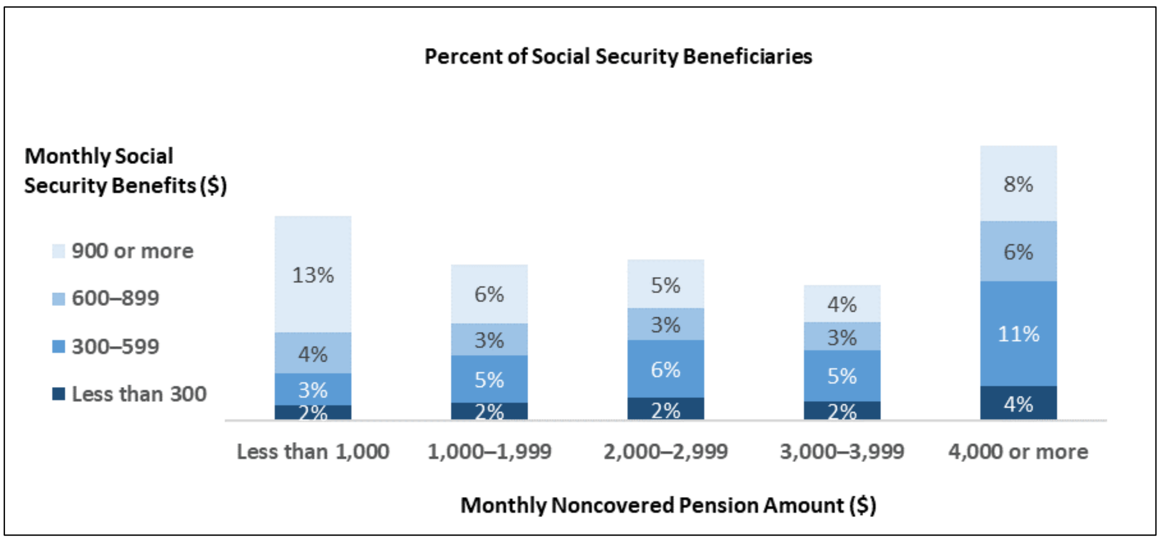
[23] CRS, based on unpublished data from Social Security Administration (SSA), Office of Research, Evaluation, and Statistics (ORES), Tables W01 and W06, January 2023.

them received a monthly noncovered pension amount of $2,000 or more and a monthly Social Security benefit below $600 after the effect of the WEP (see **Figure 2**).

However, some workers may work a relatively short career or at relatively low earnings in both Social Security–covered and noncovered jobs, thus resulting in relatively low combined Social Security and noncovered pension benefits. In December 2022, among WEP-affected beneficiaries who became eligible for Social Security in 2019, about 9% of those beneficiaries received less than $1,000 per month in noncovered pensions and less than $900 per month in Social Security benefits (for a combined total below $1,900 per month). Another 7% received between $1,000-1,999 per month in noncovered pensions and less than $600 per month in Social Security (for a combined total greater than $1,000 and below $2,599 per month). This monthly benefit amount does not include retirement income received from other sources (such as need-based benefits and other government transfers, earnings, retirement savings, and asset income).

Figure 2. Distribution of WEP-Affected Social Security Beneficiaries by Monthly Noncovered Pension Amount and Monthly Social Security Benefits, December 2022

Among Social Security beneficiaries with first eligibility in 2019



Source: CRS, based on unpublished data from SSA's ORES, Table W16, January 2023.

Notes: Data reflects beneficiaries for whom noncovered pension amounts are available. The monthly pension amount represents the noncovered government pension amount at the time of initial filing. Social Security benefits are measured by the primary insurance amount after the effect of the WEP.

Legislative Activity on the WEP in the 117th Congress

In the 117h Congress, several proposals were introduced that would have repealed, replaced, or amended the WEP. These proposals are briefly described below.

The Social Security Fairness Act of 2021 was introduced by Representative Rodney Davis on January 4, 2021 (H.R. 82), and the Social Security Fairness Act was introduced by Senator Sherrod Brown on April 22, 2021 (S. 1302). The legislation would have repealed 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.[24] The elimination of the WEP and GPO would have applied to benefits payable for months after December 2021. The Congressional Budget Office projected that eliminating only the WEP would have cost $88 billion over the period 2022-2032 and that eliminating both the WEP and the GPO would have cost $183 billion over the period 2022-2032.[25] SSA's Office of the Chief Actuary (OCACT) projected that eliminating both the WEP and the GPO would have reduced the long-range actuarial balance (i.e., would have increased the net long-term cost) of the combined Social Security trust funds by 0.12% of taxable payroll and would have changed the projected year of reserve depletion for the combined Social Security trust funds from 2035 under current law to 2034 under the proposal.[26] On September 20, 2022, the House Committee on Ways and Means held a markup for H.R. 82, and the bill reported without recommendation.[27]

The bills titled Social Security 2100: A Sacred Trust were introduced by Representative John B. Larson (H.R. 5723) and Senator Richard Blumenthal (S. 3071), respectively, on October 26, 2021. Among other provisions, the bills would have repealed the WEP and the GPO for benefits payable during 2022-2026. OCACT estimated that enactment of this provision alone would have increased the net long-term cost by 0.01% of taxable payroll.[28]

Since 2004, introduced legislation has reflected a different approach that would replace the WEP formula under current law with a new proportional formula for new beneficiaries. Under this approach, the proportional formula would apply 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.[29] 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 recent

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[24] 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)*.

[25] U.S. Congressional Budget Office, *Cost Estimate: H.R. 82, Social Security Fairness Act of 2021*, September 20, 2022, https://www.cbo.gov/publication/58488.

[26] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Rodney Davis and the Honorable Abigail Spanberger, U.S. House of Representatives, July 20, 2022, https://www.ssa.gov/OACT/solvency/DavisSpanberger_20220720.pdf. The projection was based on the intermediate assumptions of the 2022 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). In the short term, SSA's Office of the Chief Actuary projected that the legislation repealing the WEP and the GPO would have increased program costs by $146 billion over the period 2022-2031.

[27] U.S. House of Representatives, *H.Rept. 117-482 - Social Security Fairness Act of 2021*, September 20, 2022, https://www.congress.gov/congressional-report/117th-congress/house-report/482.

[28] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable John Larson, U.S. House of Representatives, October 26, 2021, https://www.ssa.gov/OACT/solvency/JLarson_20211026.pdf. The projection was based on the intermediate assumptions of the 2021 Social Security trustees report.

[29] 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.

legislation based on the proportional formula would generally attempt to hold beneficiaries harmless to a certain degree by providing the higher benefit of the current-law WEP or the proportional formula. This approach was reflected in the Public Servants Protection and Fairness Act of 2021 (H.R. 2337) and the Equal Treatment of Public Servants Act of 2021 (H.R. 5834), as described below in this section.

The Public Servants Protection and Fairness Act of 2021 (H.R. 2337) was introduced by Representative Richard E. Neal on April 1, 2021. The legislation would have replaced the WEP with a new proportional formula for individuals who become eligible for Social Security benefits in 2023 or later. The bill included a benefit guarantee provision that would have allowed individuals to receive the higher of their benefit under the current-law WEP or the proportional formula. The proposal would have also provided 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); the rebate payments would have increased with cost-of-living adjustments. In 2021, OCACT estimated that the legislation would have increased program expenditures by about $30.6 billion (mainly from the rebate) between 2021 and 2030. The change in net cash flow of $29.0 billion (net of the revenue from income taxation on benefits) would have been reimbursed from the General Fund of the U.S. Treasury. In the long run (75 years), the projected program cost would have increased by an amount equal to 0.02% of taxable payroll, and the projected program income would have increased by the same amount with transfers from the General Fund, thus having no significant effect on the combined trust funds' actuarial balance.[30]

The Equal Treatment of Public Servants Act of 2021 (H.R. 5834) was introduced by Representative Kevin Brady on November 3, 2021. Similar to H.R. 2337, the legislation would have replaced the WEP with the new proportional formula for individuals who become eligible for Social Security benefits in 2023 or later. Individuals becoming eligible during the transitional period between 2023 and 2061 would have received the higher of their benefit under the current-law WEP or the proportional formula. For those who become eligible in 2062 and later, benefits would have been based solely on the proportional formula. The proposal would have also provided a rebate payment starting nine months after enactment for workers (up to $100 per month) and their dependents (up to $50 per month) affected by the current WEP. The rebate payments would have increased with cost-of-living adjustments. In 2021, OCACT estimated that the legislation would have increased program costs by about $27.7 billion (or $26.3 billion net of the revenue from the income taxation on benefits) over the period 2022 through 2031. According to OCACT's estimates, over the 75-year projection period, future savings from the proportional formula would have offset the cost of the monthly rebate payments and the protection provision during the transitional period, so the bill would have had no significant effect on Social Security's long-term financial outlook.[31]

The Wellbeing for Every Public Servant Act of 2021 (H.R. 4788) was introduced by Representative Julia Letlow on July 29, 2021. Under the legislation, individuals whose combined monthly benefits from Social Security and noncovered public pensions were below a wage-indexed amount of $5,500 would have been exempt from the WEP. Beneficiaries whose combined monthly benefits from Social Security and noncovered public pensions were between

[30] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Richard Neal, U.S. House, April 1, 2021, https://www.ssa.gov/oact/solvency/RNeal_20210401.pdf. The estimates are based on the updated baseline of the 2020 Social Security trustees report intermediate projections, reflecting pandemic and recession effects, available at https://www.ssa.gov/oact/solvency/UpdatedBaseline_20201124.pdf.

[31] Letter from Stephen C. Goss, Chief Actuary, SSA, to the Honorable Kevin Brady, U.S. House, November 3, 2021, https://www.ssa.gov/OACT/solvency/KBrady_20211103.pdf. The estimates are based on the intermediate assumptions of the 2021 Social Security trustees report.

$5,500 and $6,333 would have been subject to a partial WEP reduction. The legislation would have applied to benefits payable for months after the enactment of this act.

Legislative Activity on the WEP in the 118th Congress[32]

On January 9, 2023, Representative Garret Graves introduced the Social Security Fairness Act of 2023 (H.R. 82). The legislation would repeal the WEP and the GPO for benefits payable for months after December 2023. For related information, see H.R. 82 in the 117th Congress, described above.

[32] As of February 6, 2023.

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 2021

		Type of Beneficiary		
State	Total	Retired Workers	Disabled Workers	Spouses and Children
Total	**1,971,102**	**1,863,933**	**12,245**	**94,924**
Alabama	17,831	16,849	157	825
Alaska	12,907	12,402	63	442
Arizona	38,573	36,692	202	1,679
Arkansas	10,652	10,184	105	363
California	276,358	262,076	1,616	12,666
Colorado	70,611	67,665	803	2,143
Connecticut	21,094	20,383	97	614
Delaware	4,562	4,384	31	147
District of Columbia	7,114	6,923	42	149
Florida	108,272	102,507	561	5,204
Georgia	56,893	54,803	360	1,730
Hawaii	11,626	10,922	40	664
Idaho	9,425	8,938	58	429
Illinois	99,946	96,375	373	3,198
Indiana	17,767	16,911	134	722
Iowa	8,315	8,003	60	252
Kansas	9,480	9,084	69	327
Kentucky	25,292	24,365	180	747
Louisiana	49,787	47,264	577	1,946
Maine	19,935	19,318	79	538
Maryland	46,498	44,566	223	1,709
Massachusetts	85,431	82,572	567	2,292
Michigan	22,645	21,437	179	1,029
Minnesota	16,484	15,894	74	516
Mississippi	9,571	9,120	78	373
Missouri	41,134	39,972	226	936
Montana	6,598	6,289	33	276
Nebraska	5,657	5,421	40	196
Nevada	36,716	35,425	222	1,069
New Hampshire	9,097	8,719	79	299
New Jersey	22,767	21,368	187	1,212
New Mexico	13,978	13,174	116	688
New York	32,400	30,289	222	1,889
North Carolina	31,636	30,269	182	1,185
North Dakota	2,302	2,212	8	82

State	Total	Type of Beneficiary: Retired Workers	Disabled Workers	Spouses and Children
Ohio	156,412	150,313	1,372	4,727
Oklahoma	17,254	16,443	135	676
Oregon	18,659	17,802	76	781
Pennsylvania	36,141	34,288	261	1,592
Rhode Island	6,130	5,928	48	154
South Carolina	19,429	18,584	104	741
South Dakota	3,970	3,836	18	116
Tennessee	22,298	21,287	144	867
Texas	200,309	191,331	1,145	7,833
Utah	14,298	13,379	79	840
Vermont	2,704	2,574	8	122
Virginia	47,723	45,358	127	2,238
Washington	34,905	32,804	157	1,944
West Virginia	6,246	5,854	61	331
Wisconsin	12,686	12,184	56	446
Wyoming	2,673	2,565	22	86
Outlying Areas and Foreign Countries	109,911	86,628	389	22,894

Source: CRS, based on unpublished data from SSA, ORES, Table B, February 2022.

Table A-2. Percentage of Social Security Beneficiaries in Current Payment Status Affected by the WEP, by State and Type of Beneficiary, December 2021

State	All Beneficiaries	Type of Beneficiary: Retired Workers	Disabled Workers	Spouses and Children
Total	3.0%	3.9%	0.2%	2.3%
Alabama	1.5%	2.2%	0.1%	1.1%
Alaska	11.7%	15.2%	0.6%	6.3%
Arizona	2.7%	3.3%	0.1%	2.0%
Arkansas	1.5%	2.2%	0.1%	0.8%
California	4.5%	5.7%	0.3%	2.8%
Colorado	7.6%	9.5%	0.9%	4.0%
Connecticut	3.0%	3.8%	0.1%	1.6%
Delaware	2.0%	2.5%	0.1%	1.4%
District of Columbia	8.5%	11.5%	0.3%	3.8%
Florida	2.2%	2.8%	0.1%	1.9%
Georgia	3.0%	4.0%	0.1%	1.5%
Hawaii	4.1%	4.7%	0.2%	4.2%
Idaho	2.5%	3.2%	0.1%	1.8%
Illinois	4.4%	5.7%	0.1%	2.3%
Indiana	1.3%	1.7%	0.1%	0.9%

State	All Beneficiaries	Type of Beneficiary		
		Retired Workers	Disabled Workers	Spouses and Children
Iowa	1.2%	1.6%	0.1%	0.7%
Kansas	1.7%	2.1%	0.1%	1.0%
Kentucky	2.5%	3.8%	0.1%	1.1%
Louisiana	5.4%	8.1%	0.4%	2.6%
Maine	5.6%	7.5%	0.2%	2.5%
Maryland	4.5%	5.7%	0.2%	3.0%
Massachusetts	6.6%	8.8%	0.3%	2.8%
Michigan	1.0%	1.3%	0.1%	0.7%
Minnesota	1.5%	1.9%	0.1%	0.9%
Mississippi	1.4%	2.0%	0.1%	0.8%
Missouri	3.1%	4.3%	0.1%	1.3%
Montana	2.7%	3.3%	0.1%	2.1%
Nebraska	1.6%	2.0%	0.1%	1.0%
Nevada	6.4%	8.1%	0.4%	3.6%
New Hampshire	2.8%	3.7%	0.2%	1.5%
New Jersey	1.4%	1.7%	0.1%	1.2%
New Mexico	3.1%	4.0%	0.2%	2.4%
New York	0.9%	1.1%	0.0%	0.7%
North Carolina	1.4%	1.9%	0.1%	1.1%
North Dakota	1.6%	2.1%	0.1%	1.1%
Ohio	6.5%	8.9%	0.4%	3.2%
Oklahoma	2.1%	2.9%	0.1%	1.4%
Oregon	2.1%	2.6%	0.1%	1.6%
Pennsylvania	1.3%	1.6%	0.1%	1.0%
Rhode Island	2.7%	3.5%	0.1%	1.2%
South Carolina	1.6%	2.1%	0.1%	1.2%
South Dakota	2.1%	2.6%	0.1%	1.3%
Tennessee	1.5%	2.0%	0.1%	1.0%
Texas	4.5%	6.1%	0.2%	2.3%
Utah	3.3%	4.2%	0.2%	2.5%
Vermont	1.7%	2.2%	0.0%	1.3%
Virginia	3.0%	3.9%	0.1%	2.4%
Washington	2.5%	3.1%	0.1%	2.2%
West Virginia	1.3%	1.9%	0.1%	0.8%
Wisconsin	1.0%	1.2%	0.0%	0.7%
Wyoming	2.2%	2.8%	0.2%	1.4%
Outlying Areas and Foreign Countries	7.0%	8.9%	0.3%	10.0%

Source: CRS analysis of data from the following sources: SSA, ORES, Table B, February 2022 (unpublished); and SSA, ORES, *Annual Statistical Supplement, 2022*, Table 5.J2, https://www.ssa.gov/policy/docs/statcomps/supplement/2022/5j.html#table5.j2.

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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