

SOCIAL SECURITY FAIRNESS ACT WOULD HASTEN SOCIAL SECURITY'S INSOLVENCY BY REVERTING TO UNFAIR AND INACCURATE BENEFITS

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Background

Congress will vote on the Social Security Fairness Act (H.R. 82) during the lame duck session of the 118th Congress in late 2024. While this bill addresses a problem that needs to be fixed, it does so by reviving large windfall benefits to predominantly middle- and upper-income retirees instead of relying on now-available data to apply a fair and accurate fix.

Providing windfall benefits to individuals who worked in government jobs that were exempt from Social Security taxes would cost \$196 billion over 10 years and cause Social Security to become insolvent six months earlier than projected. This will directly result in an additional \$2,500 in benefit cuts for a typical Social Security recipient in 2033.

An Unintended Flaw in Social Security's Original Benefit Formula

Social Security was designed to provide progressive benefits, meaning that Social Security benefits replace a higher share of lower-income individuals' prior earnings.

Social Security was also designed to support the family and workforce structure of the era: the 1930s. At the time, this meant providing a spousal benefit to individuals—almost always women—who did not work long enough to earn a benefit of their own.

An unanticipated flaw in the benefit formula—which counted years spent in government jobs exempt from Social Security taxes as zeros—violated the program's intents for progressive and spousal benefits. Consequently, workers who had jobs that were not subject to Social Security taxes and instead provided their own benefits ended up being treated like they had lower incomes than they actually earned, or like they were stay-at-home-spouses when they worked and earned their own pensions.

Social Security Fairness Act Would Violate Progressive Benefit Structure by Reinstating Windfall Benefits			
Average Annual Earnings	Replacement Rate (benefit as % of average earnings)		
	35 Years Taxed by Social Security	12 Years Taxed, 23 Exempt from Social Security	
\$20,000	73%	90%	
\$40,000	52%	90%	
\$80,000	42%	62%	
\$160,000	29%	47%	

Source: Author's calculations based on Social Security's 2024 benefit formula and hypothetical elimination of the WEP.

When Congress passed the legislation to eliminate these windfall benefits—[the Government Pension Offset \(GPO\) in 1977](#) and [the Windfall Elimination Provision \(WEP\) in 1983](#)—they lacked the data necessary to apply an accurate fix, so they implemented an imperfect one instead. This means that some people still receive windfall benefits (albeit much smaller than before), and others end up with lower Social Security benefits, or a penalty, compared to the program’s intended benefits.

Figure 3: Without WEP, High-Income Workers Are Treated Like Low-Income Workers, Giving them Windfall Social Security Benefits

In this example, Sam is a high-income worker who has split his career over two jobs, working 12 years in a job that was covered by Social Security and 23 years in a job that was not. Prior to the WEP, Sam would be treated like he had a lifetime of moderate earnings instead of the high earnings he actually had. The WEP seeks to prevent Sam from receiving higher Social Security benefits for years he did not pay Social Security taxes (and instead earned a separate government pension).

		Without WEP	A Correct Fix
Covered Years	Number of years	12	12
	Average earnings	\$160,000	\$160,000
Exempt Years	Number of years	23	23
	Average earnings	\$0	n/a
Average earnings used in Social Security benefit calculation		\$54,857	\$160,000
Social Security benefit		\$25,725	\$15,981

Source: Author's analysis based on Social Security formulas applicable in 2024.

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Finding a Fair and Fiscally Responsible Fix

Reverting to the originally flawed formulas would neither be fair nor fiscally responsible. The Social Security Fairness Act would cause some individuals with identical incomes to be treated differently and some individuals with different lifetime incomes to be treated the same. It would also hasten Social Security’s insolvency and result in even larger benefit cuts.

Instead of reverting to a deeply flawed formula, policymakers should use the data that is now available to implement a fair and accurate fix, based on the income people actually earned and the Social Security taxes they actually paid.

The [Equal Treatment of Public Servants Act](#) provides a fair long-term fix for the WEP (without reducing any benefits and providing lump sum payments to affected individuals) at a cost of \$24 billion over 10-years and a “negligible” long-term cost. A similar fix for the GPO could be incorporated into that Act or a separate bill.