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Social Security Benefit Enhancements for Women Act of 2002 (H.R. 4069)

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Summary

On May 14, 2002, the House passed the *Social Security Benefit Enhancements for Women Act of 2002* (H.R. 4069), as amended, by a vote of 418-0. H.R. 4069 includes benefit enhancements targeted to certain divorced spouses and disabled and elderly widow(er)s. Specifically, the measure would: (1) eliminate the requirement that widow(er)s seeking disability benefits must have become disabled within 7 years of the worker's death; (2) eliminate the 2-year waiting period for divorced spouse's benefits when the worker has remarried; and (3) disregard months after the worker's death in the application of early retirement rules for purposes of determining the limit on widow(er)'s benefits payable on the worker's record. Preliminary estimates by the Congressional Budget Office show that H.R. 4069 would affect over 120,000 persons and cost \$3.3 billion over 10 years. The Social Security Administration's Office of the Chief Actuary estimates that the measure would have only a negligible effect on the long-range actuarial balance of the Social Security trust funds. This report will be updated as legislative action occurs.

Background

The Social Security program provides benefits to retired and disabled workers, to their dependents, and to the survivors of deceased workers. In 2000, there were 45 million Social Security recipients. Of those, 53% were women (compared to 39% men, 8% children); and 81% of the total recipient population was age 62 or older. Benefit amounts varied by gender. The average benefit was \$928 for men and \$696 for women. For retired workers, the average benefit was \$951 for men, \$730 for women; for the spouses of retired workers, \$243 for men, \$431 for women; for disabled workers, \$883 for men, \$661 for women; for nondisabled widow(er)s, \$607 for men, \$812 for women; and for disabled widow(er)s, \$362 for men, \$524 for women.

Social Security is the primary source of income for the elderly (persons age 65 and older). In 2000, 90% of the elderly population had income from Social Security (compared to 29% with private pensions and 14% with government employee pensions). For 64% of elderly recipients, Social Security represented at least half of total income.

For 20% of elderly recipients, it was the only source of income (Social Security was the only source of income for 11% of married couples and 26% of nonmarried persons).¹

Social Security prevents many of the elderly from falling into poverty. For example, in 2000, 8.5% of elderly Social Security recipients were poor. Without Social Security, 48.1% would have been poor. Although the poverty rate for elderly Social Security recipients is lower than that for the elderly population overall (8.5% compared to 10.2%), poverty rates for elderly Social Security recipients vary by gender and marital status. In 2000, the poverty rate for married Social Security recipients was 2.8%, compared to 13.8% for nonmarried men and 16.2% for nonmarried women. For widowed recipients, the rate was 12.3% for men, 15.0% for women. For never married recipients, the rate was 25.9% for men, 19.5% for women. For divorced recipients, the rate was 9.7% for men, 18.5% for women.²

These statistics illustrate the importance of Social Security for the elderly in general, and for women in particular. On average, women earn lower benefits than men because they earn less and spend more time outside the labor force. In addition, women tend to live longer than men; are less likely to have other sources of retirement income; and are more likely to be poor.

On March 20, 2002, Representative Shaw introduced H.R. 4069, a bill designed to enhance benefits for certain divorced spouses and disabled and elderly widow(er)s.³ Although the benefit changes in H.R. 4069 would be gender neutral, the measure targets benefits most often paid to women.⁴ On May 14, 2002, a manager's amendment to H.R. 4069 was considered by the House of Representatives under suspension of the rules (i.e., the measure did not go through the House Ways and Means Social Security Subcommittee or the full Committee).⁵ The House passed H.R. 4069, as amended, by a vote of 418-0. Preliminary estimates by the Congressional Budget Office (CBO) show that the measure would affect over 120,000 persons and cost \$3.3 billion from fiscal years 2003-2012.⁶ SSA's Office of the Chief Actuary estimates that the effect on the long-range actuarial balance of the Social Security trust funds would be negligible (i.e., less than .005 percent of taxable payroll) based on the intermediate assumptions of the 2001 Social Security

¹ "Nonmarried" includes persons who are separated or married but living apart from their spouse.

² Poverty rates for the elderly are based on family income. For more information, see: Social Security Administration (SSA), *Income of the Population 55 or Older, 2000*; *Annual Statistical Supplement, 2001*; and *Fast Facts & Figures*, June 2001.

³ H.R. 4069 is a bipartisan measure sponsored by Representative Shaw, Chairman of the House Ways and Means Social Security Subcommittee, and co-sponsored by Representative Matsui, Ranking Democrat on the Social Security Subcommittee, along with 38 other Members.

⁴ In December 2000, 4,661,540 women and 37,120 men received nondisabled widow(er)'s benefits. Similarly, of the 200,130 persons who received disabled widow(er)'s benefits, 168,590 were widows, 26,750 were surviving divorced wives, and 4,790 were widowers.

⁵ Under suspension of the rules, floor amendments were not allowed and a two-thirds majority vote was required for passage.

⁶ The estimated cost of H.R. 4069, amended, as passed by the House (i.e., including the tax provisions incorporated in the manager's amendment to H.R. 4069) is \$3.3 billion over 10 years. The estimated 10-year cost of H.R. 4069 as introduced (i.e., benefit changes only) is \$4 billion.

Trustees' report. The major provisions of H.R. 4069, amended, as passed by the House on May 14, 2002, are described below.⁷

Major Provisions of H.R. 4069

Repeal of 7-Year Restriction on Eligibility for Widow(er)'s Insurance Benefits Based on Disability. Under current law, surviving spouses (including divorced spouses) may be entitled to widow(er)'s benefits beginning at age 60. However, surviving spouses may be entitled to benefits as early as age 50 if they are disabled and the qualifying disability occurred (1) before or within 7 years of the worker's death; (2) within 7 years of having been previously entitled to benefits on the worker's record as a surviving spouse with a child in care; or (3) within 7 years of having been previously entitled to benefits as a disabled surviving spouse that ended because the qualifying disability ended (whichever is later). Benefits for disabled widow(er)s beginning at age 50 were enacted in 1967 when workers aged 50-59 needed to work for up to 7 years in order to qualify for disability benefits on their own record. The 7-year requirement was designed to protect disabled widow(er)s by allowing them to qualify for benefits if they lacked the work history needed to qualify for disability benefits on their own record.

H.R. 4069 would eliminate the requirement that surviving spouses must become disabled within 7 years of the worker's death in order to qualify for widow(er)'s benefits from ages 50-59 (i.e., it would allow disabled surviving spouses to qualify for widow(er)'s benefits from ages 50-59 *regardless of when the disability occurred*). This provision would apply to benefits payable for months after November 2002. CBO estimates that this provision would affect 26,000 persons.

Exemption from 2-Year Waiting Period for Divorced Spouse's Benefits Upon Other Spouse's Remarriage. Under current law, spouse's benefits are payable provided that the worker is receiving benefits. However, if the worker is eligible to receive benefits (but is not receiving them), a divorced spouse may be eligible for benefits on the worker's record, but *only if the divorce has been final for at least 2 years*. This 2-year waiting period in cases of divorce was established to discourage individuals from seeking divorce as a way to gain independent entitlement on the worker's record.

H.R. 4069 would deem the 2-year requirement met if the worker marries someone other than the former spouse during the 2-year period following the divorce. This would allow the divorced spouse to claim benefits on the worker's record immediately, assuming other eligibility requirements are met.⁸ Under a conforming amendment, divorced spouses who qualify for benefits under the 2-year exemption would not be affected by the earnings test as it applies to the worker (i.e., the divorced spouse's benefit would not be affected if the worker has earnings that cause benefits payable on his or her record to be

⁷ On May 17, 2002, Senator Gordon Smith introduced S. 2533 (the *Social Security Benefit Enhancements for Women Act of 2002*). S. 2533 contains the same provisions as H.R. 4069 as introduced on March 20, 2002.

⁸ To qualify for old-age benefits on a worker's record, the divorced spouse must have been married to the worker for at least 10 years before the divorce became final; must be at least age 62; and must be currently unmarried.

withheld). (See the “Explanatory Notes” section for a description of the earnings test.) This provision would apply to benefits payable for months after November 2002. CBO estimates that this provision would affect fewer than 500 persons.

Months After Deceased Individual’s Death Disregarded in Applying Early Retirement Rules with Respect to Deceased Individual for Purposes of Limitation on Widow(er)’s Benefits. Under current law, surviving spouses (including divorced spouses) may be eligible for widow(er)’s benefits beginning at age 60 (or age 50 if disabled). The widow(er)’s basic benefit is equal to 100% of the worker’s “primary insurance amount.”⁹ If the widow(er) files for benefits before the NRA, his or her benefits are then permanently reduced to take into account early retirement. However, if the worker filed for benefits before the NRA and the widow(er)’s benefit payable on the worker’s record exceeds the benefit the worker was receiving before his or her death, the widow(er)’s benefit is subject to a limit under a special provision of the law called the “*widow(er)’s limit provision*.” Under the widow(er)’s limit provision, the widow(er)’s benefit is limited to the higher of: (1) the benefit the worker would be receiving if he or she were still alive and (2) 82.5% of the worker’s PIA.¹⁰ If the worker died before reaching the NRA and he or she had benefits withheld due to the earnings test, the worker’s benefit is recomputed to take into account months for which benefits were not paid for purposes of determining the limit on the widow(er)’s benefit.¹¹

H.R. 4069 would treat months of nonpayment between the worker’s retirement and attainment of the NRA *due to the worker’s death* in the same manner as months of nonpayment due to the earnings test. That is, if a worker elects early retirement and dies before reaching the NRA, the worker’s benefit would be recomputed (at the time the worker would have reached the NRA) to exclude the month of death, and all subsequent months leading up to the worker’s attainment of the NRA, from the actuarial reduction for early retirement. Basing the early retirement reduction in the worker’s benefit only on *the number of months the worker collected benefits* between his or her retirement and the NRA, rather than *the total number of months* during that period, would raise the limit on the widow(er)’s benefit payable on the worker’s record. This provision would apply

⁹ The “primary insurance amount” (PIA) is the basic benefit amount before any adjustments for early or delayed retirement. If an individual files for benefits *before* the “normal retirement age” (NRA – the age at which *unreduced* benefits are first payable), his or her benefits are permanently reduced to take into account the longer period of benefit receipt. Similarly, if an individual files for benefits *after* the NRA, his or her benefits are permanently increased to take into account the shorter period of benefit receipt.

¹⁰ For more information, see: SSA, Office of Policy, Office of Research, Evaluation, and Statistics. [*The Widow\(er\)’s Limit Provision of Social Security*](#) by David A. Weaver. ORES Working Paper Series, Number 92, June 2001.

¹¹ If a recipient’s benefits are withheld due to the earnings test (see the “Explanatory Notes” section for a description of the earnings test), his or her benefit is recomputed at the NRA to take into account months for which benefits were not paid (i.e., the actuarial reduction for early retirement does not apply to months of nonpayment due to the earnings test, resulting in a higher monthly benefit). If the recipient dies before reaching the NRA, the deceased worker’s benefit is recomputed in the same manner (at the time of the worker’s death) to determine the limit on the widow(er)’s benefit.

to benefits payable for months after November 2002. CBO estimates that this provision would affect 96,000 persons.

Offsetting Tax Provisions. H.R. 4069, amended, as passed by the House, contains three offsetting tax provisions.¹² One provision would allow individual taxpayers to exclude from gross income any interest payments received from the government on tax overpayments (i.e., the interest payments would not be subject to federal income taxes). In addition, the interest payments would not be treated as “tax-exempt interest” for the purpose of determining the portion of Social Security benefits subject to federal income taxes.¹³ The exclusion from gross income would apply only in cases where tax overpayments were made in error (i.e., it would not apply in cases where the Secretary of the Treasury determines that a tax overpayment was made deliberately to take advantage of the exclusion). This provision would apply to interest payments received after December 31, 2006.

A second provision would allow taxpayers to make a cash deposit to the Treasury which may be treated as payment for income, estate, gift and certain excise taxes, not assessed at the time of the deposit, to stop the accumulation of interest charges on a potential tax underpayment (for example, in cases where a proposed tax deficiency is being disputed by the taxpayer). The portion of the deposit attributable to a disputed tax item would earn interest. Taxpayers would be allowed to withdraw deposits not used for the payment of tax at any time upon written request, unless the Secretary determines that collection of the tax is in jeopardy. (Interest earned on withdrawn amounts would not be eligible for the exclusion from gross income provided for under the first provision.) If the taxpayer’s position is ultimately upheld in a tax dispute, the taxpayer would be refunded the deposit plus interest (the refund would be treated as an overpayment of tax). Alternatively, if the taxpayer loses, the tax would be treated as having been paid (and the accrual of interest charges on the underpayment stopped) at the time the deposit was made. This provision would apply to deposits made after the date of enactment.

A third provision would authorize the Secretary of the Treasury to enter into written agreements with taxpayers for *partial* payment of tax liabilities in installments (rather than only *full* payment as authorized under current law) if the Secretary determines that the agreement will facilitate collection of the tax liability. It would require the Secretary to review partial payment installment agreements at least once every 2 years. This provision would apply to agreements entered into on or after the date of enactment.

¹² Similar provisions were included in H.R. 3991 (the *Taxpayer Protection and IRS Accountability Act of 2002*, H. Rept. 107-394), as amended, which was defeated in the House by a vote of 205-219 on April 10, 2002.

¹³ Under current law, up to 50% of Social Security benefits are subject to federal income taxes if modified adjusted gross income (AGI) (AGI plus tax-exempt interest) plus one-half of Social Security benefits exceeds \$25,000 for a single person or \$32,000 for a married couple filing jointly. Up to 85% of Social Security benefits are taxable if modified AGI plus one-half of Social Security benefits exceeds \$34,000 for a single person or \$44,000 for a married couple filing jointly. Revenue from the first tier of benefit taxation is credited to the Social Security trust funds. Revenue from the second tier is credited to the Medicare Hospital Insurance trust fund.

The Joint Committee on Taxation estimates that the tax provisions would result in a net revenue increase of \$694 million over 10 years (fiscal years 2003-2012). (The provisions would result in revenue gains during the first part of the projection period and revenue losses during the latter part.) All revenue effects are assumed to be “on-budget” (i.e., Social Security revenues would not be affected).¹⁴

Explanatory Notes

Social Security Earnings Test. Under the earnings test, benefits are withheld if the recipient is below the NRA and has earnings from work above a specified amount (\$11,280 in 2002). Benefits are withheld by \$1 for every \$2 of earnings above that amount. The earnings test no longer applies beginning with the month the recipient reaches the NRA. During the year in which a recipient reaches the NRA, a higher annual exempt amount applies (\$30,000 in 2002), and benefits are withheld by \$1 for every \$3 of earnings above that amount. The annual exempt amounts are indexed to average wage growth. The earnings test applies to the worker’s retirement benefit and to dependent’s and survivor’s benefits payable on the worker’s record. However, benefits for divorced spouses are not withheld if the divorce has been final for at least 2 years.

Retirement Age Increase. Under the *Social Security Amendments of 1983*, the normal retirement age (NRA) is being increased gradually from 65 to 67. In January 2000, the NRA began increasing in 2-month increments for persons born in 1938 (i.e., persons age 62 in 2000) through 1943. The NRA will remain 66 for persons born in 1944 through 1954. It will increase again in 2-month increments until it reaches 67 for persons born in 1960 and later. The earliest eligibility age remains 62.

Adjustments for Early Retirement. If a worker files for benefits *before* the NRA, his or her benefits are permanently reduced to take into account the longer expected period of benefit receipt. The adjustments made for early retirement are “actuarial” in that, assuming the individual survives to life expectancy, he or she will receive the same *total lifetime benefit* as if he or she had filed for benefits at the NRA. The majority of workers elect early retirement.

¹⁴ The first tax provision would have only a secondary effect with regard to federal income taxes paid on Social Security benefits. Over 10 years, the estimated net cost of H.R. 4069, as amended, is \$3.307 billion (\$850 million in net “on-budget” costs and \$2.456 billion in “off-budget” costs).