



GENERAL COUNSEL

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

MAY 26 2000

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

Dear Mr. Speaker:

The Department of Defense proposes the enclosed draft bill, "Social Security Military Wage Credits." This proposal is part of the departmental legislative program for the Second Session of the 106th Congress and we urge its enactment. The Office of Management and Budget advises that there is no objection to the presentation of this draft legislation to Congress, and that its enactment would be in accord with the President's program.

Purpose of the Legislation

The purpose of this legislation is to eliminate the Social Security Military Wage Credit except for certain junior service members. In 1957, military members were brought under the Social Security System. Service members were subject to Federal Insurance Contributions Act (FICA) taxes on their basic pay only. Basic pay constitutes only about two-thirds of regular military compensation, which includes the tax-free allowances for housing and subsistence, or the provision of these in-kind. To recognize the full value of military compensation for Social Security purposes (i.e., FICA taxes), Congress granted gratuitous "wage credits," to service members of up to \$1,200 per year. The "taxes" related to these wage credits are paid on their behalf each year into the Social Security Trust Fund by the Department of Defense.

Since only the highest 35 years of earnings are counted in determining Social Security benefits, most service members who do not continue to retirement (83 percent of service members) would generally have 35 years of earnings without considering Military Service. Any military earnings that do count in the 35-year period are modest compared to more recent earnings and would have almost no influence in the calculation of Social Security benefits. Eliminating the military wage credit will allow these funds to be reapplied to other essential military pay and retirement initiatives with minimal impact on a former service member's future overall Social Security benefit. Wage credits, however, do provide a significant increase in survivor and disability benefits for junior members. The proposal would retain the credits for these individuals; i.e. those enlisted service members who die or become disabled before age 47. The wage credit benefit, accordingly, is retained for any military member in a grade below E-6 and with fewer than six years of service when the benefit is payable for disability or to a survivor.

Elimination of the requirement to pay these wage credits will ensure that the Department's pay and retirement package for our military personnel is tightly focused to achieve the greatest benefit for these devoted members of our Armed Forces.

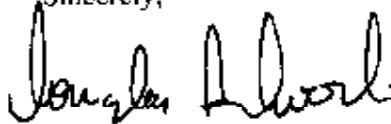


Cost and Budget Data

Eliminating military wage credits reduces annual outlays by approximately \$320 million. Protecting the disability and survivor benefit for junior members requires a supplemental survivor/disability benefit (\$1 million annually).

The Administration first proposed this legislation as part of the FY 2000 President's Budget, and the Department realigned approximately \$320 million annually to help finance reinstatement of the full retirement benefit to our military personnel. The FY 2001 President's Budget, which continues the enhanced military retirement benefit passed by the Congress last year, is predicated on amending the Social Security Act to exclude wage credits.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas A. Dworkin". The signature is fluid and cursive, with the first name being the most prominent.

Douglas A. Dworkin
Acting General Counsel

Enclosure
As Stated



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1600 DEFENSE PENTAGON
WASHINGTON, D. C. 20301-1600

MAY 26 2005

The Honorable Al Gore
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

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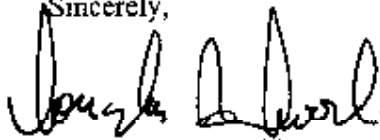


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Douglas A. Dworkin
Acting General Counsel

Enclosure
As Stated

SEC. ____ . SOCIAL SECURITY MILITARY WAGE CREDITS.

1 **(a) TERMINATION OF AUTOMATIC, ACROSS-THE BOARD WAGE CREDITS.—(1)**

2 **TERMINATION OF WAGE CREDIT.—**Section 229(a)(2) of the Social Security Act (42 U.S.C.
3 429) is amended by inserting “and before 2001” after “1977”.

4 **(2) TERMINATION OF ANNUAL FUNDING AUTHORITY.—**Section 229(b) of such Act
5 is amended in the first sentence by inserting “before 2001” after “each calendar year”.

6 **(3) REQUIREMENT FOR FINAL ACCOUNTING.—**Section 229(b) of such Act is
7 amended by adding at the end the following new paragraph:

8 “Not later than June 1, 2003, the Commissioner of Social Security shall
9 determine whether and the extent, if any, to which amounts transferred to the Federal
10 Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust
11 Fund under this subsection for fiscal years ending prior to January 1, 2001, were in
12 excess of or less than the amounts required to be so transferred. No later than 30 days
13 following the Commissioner’s determination, the Secretary of the Treasury shall transfer
14 from the general fund of the Treasury to the Federal Old-Age and Survivors Insurance
15 Trust Fund or the Federal Disability Insurance Trust Fund, or from such Trust Fund to the
16 general fund of the Treasury, such amount or amounts (if any) that the Commissioner
17 determines to be appropriate.”.

18 **(b) MILITARY WAGE CREDIT FOR SHORT-TERM ENLISTED SERVICE MEMBERS**
19 **WHO DIE OR BECOME DISABLED BEFORE AGE 47.—**Section 229 of such Act is amended
20 by adding at the end the following:

1 “(c)(1) For purposes of determining entitlement to and the amount of any benefit
2 for any month, or entitlement to any lump-sum death payment, payable under this title on
3 the basis of the wages and self-employment income of any individual—

4 “(A) who is dead or under a disability (as defined in section 223(d)),

5 “(B) whose death or date of onset of such disability occurred prior to the
6 individual’s attainment of age 47, and

7 “(C) who, prior to death or the date of onset of such disability, performed
8 fewer than 6 years service as a member of a uniformed service (as defined in
9 section 210(m)) that was included in the term ‘employment’ as defined in section
10 210(a) as a result of the provisions of section 210(l)(1)(A)

11 there shall be deemed to have been paid to such individual in each calendar year
12 occurring after 2000 in which such individual was paid wages for the service described in
13 subparagraph (C) at a basic pay grade below E-6, additional wages of \$100 for each \$300
14 of wages paid for the service described in subparagraph (C), up to a maximum of \$1200
15 of additional wages for any calendar year.

16 “(2)(A) Whenever the Commissioner computes the primary insurance amount of
17 an individual described in paragraph (1) for the purpose of determining the amount of a
18 monthly benefit payable on the basis of such individual’s wages and self-employment
19 income, the Commissioner shall additionally calculate, with respect to each calendar year
20 (not previously subject to a calculation under this subparagraph) in which additional
21 wages are deemed to have been paid to such individual (under paragraph 1)) that is also a

1 benefit computation year (as defined in section 215 (b)(2)(B)) used in the computation of
2 such primary insurance amount, the total of—

3 “(i) the amounts that would have been appropriated to the Federal Old-
4 Age and Survivors Insurance Trust Fund and the Federal Disability Insurance
5 Trust Fund under section 201 if such deemed additional wages had constituted
6 wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) for
7 purposes of the taxes imposed by sections 3101 and 3111 of such Code in such
8 calendar year, and

9 “(ii) such additional amounts necessary to place such Trust Funds in the
10 position, as of the last day of the calendar year in which the Commissioner so
11 computes such individual’s primary insurance amount, as they would have been
12 in on such day had the amounts described in clause (i) been appropriated to such
13 Trust Funds under section 201 in a timely manner.

14 “(B) No later than July 1 of the year 2002 and each year thereafter, the
15 Commissioner shall notify the Secretary of the Treasury of the total, with respect to each
16 such Trust Fund, of all amounts calculated by the Commissioner under subparagraph (A)
17 during the preceding calendar year. Within 30 days following notification by the
18 Commissioner, the Secretary of the Treasury shall transfer the amount so calculated with
19 respect to each such Trust Fund to such Trust Fund from amounts in the general fund of
20 the Treasury not otherwise appropriated. Proper adjustment shall be made in amounts
21 required to be transferred with respect to any calendar year to the extent that the
22 Commissioner determines, on the basis of appropriate data, that amounts calculated and

1 transferred with respect to any earlier year were less than, or in excess of, the amount
2 required to be so calculated and transferred.

3 “(3) The head of each uniformed service described in section 210(m) shall report
4 to the Commissioner, in such form and within such time frame as the Commissioner may
5 specify, such information as the Commissioner may require for the purpose of carrying
6 out this subsection.”.