CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 28, 2003

H.R. 743

Social Security Protection Act of 2003

As ordered reported by the Senate Committee on Finance on September 17, 2003

SUMMARY

H.R. 743 would:

- Strengthen the Social Security Administration's (SSA's) oversight of representative payees (people who handle benefit checks for others, such as children or mentally impaired adults);

- Bar fugitives from receiving Social Security benefits;

- Enhance SSA's ability to enforce rules that limit Social Security benefits for people with pensions from noncovered work in state and local government, and close a loophole that now enables some to skirt those restrictions by switching jobs briefly;

- Broaden the agency's ability to recover past overpayments in the Supplemental Security Income (SSI) program from Social Security benefits and vice versa;

- Reduce how much SSA may charge attorneys when it remits their fee directly from accrued benefits of successful claimants;

- Expand eligibility of people with some resources for SSI and, consequently, Medicaid; and

- Step up federal review of SSI awards made by state agencies.

On balance, enacting H.R. 743 would lead to small net costs in 2004 and 2005 and net savings thereafter. In total, CBO estimates that H.R. 743 would reduce direct spending and boost revenue by $0.6 billion over the 2004-2013 period. The federal budget classifies the

Social Security portion of that figure (-$3.3 billion) as "off-budget" and the rest ($2.7 billion) as "on-budget." (One provision would transfer $0.7 billion from the on- to the off-budget side of the ledger, which swells both figures but does not affect the total.)

H.R. 743 would also affect discretionary spending. CBO estimates that implementing the bill would cost SSA about $20 million to $30 million annually for extra enforcement and processing activities.

The Joint Committee on Taxation has reviewed the tax provisions of H.R. 743 and determined those provisions contain no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO reviewed the rest of the act for mandates. Section 4 of UMRA excludes from the provisions of that act any provision in a bill or act that relates to the Old-Age, Survivors, and Disability Insurance program (OASDI) under title II of the Social Security Act. The provisions of H.R. 743 that amend title II of the Social Security Act would fall within that exclusion. Other provisions would preempt certain state laws; the costs resulting from those mandates, if any, would be significantly below the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation). Changes to the SSI program would lead to additional state spending for Medicaid, but those changes would not result in mandates as defined in UMRA. The act does contain one private-sector mandate, but CBO estimates that its cost would not exceed the UMRA threshold ($120 million in 2004, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of H.R. 743 are shown in Table 1. The costs of the legislation fall within budget functions 550 (health), 570 (Medicare), 600 (income security), and 650 (Social Security).

BASIS OF ESTIMATE

About a dozen of H.R. 743's provisions account for its estimated budgetary effects. They are listed in Table 2. For this estimate, CBO assumes that H.R. 743 will be enacted this fall.

TABLE 1. ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY TITLE

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING (OUTLAYS)										
Title I: Protection of Beneficiaries	7	9	5	*	*	*	*	*	*	*
Title II: Program Protections	-59	-116	-226	-279	-328	-390	-424	-413	-415	-420
Title III: Attorney Fee Payment System Improvements	12	24	25	27	28	29	31	32	33	34
Title IV: Miscellaneous and Technical Amendments	49	116	183	226	268	285	288	277	269	243
Total Direct Spending										
On-budget	735	40	130	187	241	263	270	269	283	284
Off-budget	-727	-8	-143	-213	-273	-338	-376	-372	-395	-427
Total	9	32	-12	-26	-32	-75	-105	-104	-113	-143
CHANGES IN REVENUES										
Title IV: Miscellaneous and Technical Amendments										
On-budget	-2	*	*	*	*	*	*	*	*	*
Off-budget	1	1	2	2	3	3	3	4	4	5
Total	-1	1	2	2	3	3	3	4	4	5
NET CHANGES IN DIRECT SPENDING AND REVENUES (EFFECT ON DEFICITS)										
Direct Spending and Revenues (Net)										
On-budget	737	40	130	187	241	263	270	269	283	284
Off-budget	-727	-9	-144	-215	-276	-341	-379	-376	-400	-432
Total	10	31	-14	-28	-34	-78	-109	-108	-117	-148
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)										
Spending Subject to Appropriation										
On-budget	14	16	15	16	17	17	18	18	18	19
Off-budget	5	4	11	7	8	8	8	6	7	7
Total	19	20	26	23	25	25	26	24	26	26

NOTES: Details may not add to totals because of rounding.

The Congressional Budget Act labels revenues and outlays of the Social Security trust funds "off-budget."

* = Less than $500,000.

TABLE 2. ESTIMATED EFFECTS OF H.R. 743, THE SOCIAL SECURITY PROTECTION ACT OF 2003, BY MAJOR PROVISION

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING (OUTLAYS)										
Title I: Protection of Beneficiaries										
Authority to Reissue Certain Misused Benefits										
OASDI[a]	2	*	*	*	*	*	*	*	*	*
SSI	1	*	*	*	*	*	*	*	*	*
Survey of Use of Payments by Representative Payees	4	9	5	*	*	*	*	*	*	*
Subtotal, Title I	7	9	5	*	*	*	*	*	*	*
Title II: Program Protections										
Denial of Title II Benefits to Fugitives										
OASDI[a]	-10	-30	-44	-55	-59	-61	-63	-66	-68	-70
Medicare	-1	-4	-11	-15	-19	-22	-23	-25	-25	-27
Information on Pensions from Noncovered Employment	0	*	-125	-185	-240	-300	-330	-315	-315	-315
Cross-program Recovery of Overpayments										
OASDI[a]	-1	-3	-3	-3	-3	-3	-3	-3	-2	-2
SSI	-48	-79	-43	-21	-7	-4	-5	-5	-5	-6
Subtotal, Title II	-59	-116	-226	-279	-328	-390	-424	-413	-415	-420
Title III: Attorney Fee Payment System Improvements										
Cap on Attorney Assessments										
Offsetting Receipts, OASDI[a]	12	24	25	27	28	29	31	32	33	34
Title IV: Miscellaneous and Technical Amendments										
Demonstration Authority Sunset Date										
OASDI[a]	*	2	5	5	5	5	5	5	5	5
Coverage under Divided Retirement Systems										
OASDI[a]	*	*	*	*	*	*	*	*	*	1
60-month Employment Requirement for Exemption from GPO										
OASDI[a]	*	*	-1	-2	-4	-8	-15	-26	-49	-80
Post-1956 Military Wage Credits										
Payments to Trust Funds	903	0	0	0	0	0	0	0	0	0
Offsetting Receipt, OASDI[a]	-730	0	0	0	0	0	0	0	0	0
Offsetting receipt, HI	-173	0	0	0	0	0	0	0	0	0

Continued

TABLE 2. Continued

	By Fiscal Year, in Millions of Dollars									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Amendments related to SSI (Subtitle D):										
Update for Resource Limit										
SSI	6	14	19	18	21	22	23	26	23	26
Medicaid	45	110	185	240	290	335	370	405	440	485
Medicare	5	20	35	55	80	90	100	105	115	120
Review of State Agency Determinations										
SSI	-3	-11	-20	-28	-39	-48	-57	-71	-67	-81
Medicaid	-4	-19	-40	-62	-85	-111	-138	-167	-198	-233
Other SSI Provisions	*	*	*	*	*	*	*	*	*	*
Subtotal, Title IV	49	116	183	226	268	285	288	277	269	243
Total Changes in Direct Spending										
On-budget	735	40	130	187	241	263	270	269	283	284
Off-budget	-727	-8	-143	-213	-273	-338	-376	-372	-395	-427
Total	9	32	-12	-26	-32	-75	-105	-104	-113	-143
CHANGES IN REVENUES										
Title IV: Miscellaneous and Technical Amendments										
Coverage under Divided Retirement Systems										
OASDI Revenues [a]	1	1	2	2	3	3	3	4	4	5
Other Revenues	*	*	*	*	*	*	*	*	*	*
Clarification of Tax Treatment of Individual Work Plans	-2	*	*	*	*	*	*	*	*	*
Total Changes in Revenues										
On-budget	-2	*	*	*	*	*	*	*	*	*
Off-budget	1	1	2	2	3	3	3	4	4	5
Total	-1	1	2	2	3	3	3	4	4	5
CHANGES IN SPENDING SUBJECT TO APPROPRIATION (OUTLAYS)										
OASDI Administrative Expenses [a]	5	4	11	7	8	8	8	6	7	7
SSI Administrative Expenses	14	16	15	16	17	17	18	18	19	19
Total Changes	19	20	26	23	25	25	26	24	26	26

NOTES: Details may not add to totals because of rounding.

OASDI=Old-Age, Survivors, and Disability Insurance (title II of Social Security Act); SSI=Supplemental Security Income (title XVI); GPO=government pension offset; HI=Hospital Insurance (title XVIII).

* = Less than $500,000.

a. Off-budget.

Direct Spending and Revenues

Title I—Protection of Beneficiaries. Nearly seven million people—three million adults and four million children—who get Social Security, SSI, or both have their checks sent to a representative payee who helps manage their finances. The payee must use the money to meet the beneficiary's needs and report certain events, such as changes in the beneficiary's income or school attendance, to SSA. In most cases, a family member serves as a representative payee. But attorneys, guardians, and other nonrelatives, social service agencies, institutions, and organizations also serve as payees, especially for disabled adults. About 45,000 organizations serve as representative payees for about 750,000 clients. SSA approves representative payees, requires annual reports from them, and conducts on-site reviews every three years of certain payees who serve a large number of beneficiaries.

H.R. 743 would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. This would enhance SSA's ability to recover misused funds and to impose civil monetary penalties.

Most of the provisions would have negligible effects on benefit payments or recoveries. One section, however, would require SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee. (Currently, such claimants must show negligence by SSA.) "Misuse" means converting funds to the payee's own use or any purpose other than the use and benefit of the client. The provision would be retroactive to January 1, 1995.

According to SSA, representative payees misuse about $3 million in benefits each year. Although SSA's Inspector General (IG) has found weaknesses in internal controls of some organizational payees, few of the resulting errors would constitute misuse. Because organizations handle about 12 percent of the dollars flowing through representative payees, CBO estimates that reimbursing nine years' worth of misused benefits would cost $3 million in 2004. Extra costs in 2005 through 2013 would be negligible.

The IG has issued many audits of representative payees, but most have focused on particular organizations and make it difficult to draw conclusions about nationwide patterns. H.R. 743 would direct the IG to conduct a national, statistically representative study of all types of payees—relatives, nonrelatives, institutions, local government agencies, and organizations. The legislation would provide $17.8 million for that study from SSA's section 1110 research budget, normally reserved for research performed outside SSA under grants or contracts. CBO assumes that those funds would be spent in 2004 through 2006.

Title II—Program Protection. This title would add to SSA's tools for avoiding or recovering erroneous payments and would bar payment of Social Security benefits to fugitives from the law.

Fugitive Provisions. In 1996, Congress barred SSI benefits to people with outstanding arrest warrants, whether they were convicted felons or people avoiding prosecution. H.R. 743 would extend that policy to Social Security. CBO estimates the provision would reduce Social Security spending by $10 million in 2004 and $525 million over the 2004-2013 period. CBO also estimates that the policy would save $172 million in Medicare over the 10 years.

CBO used data reported by SSA's IG to estimate those savings. The IG generalized from a sample of about 400 cases in 10 states to estimate that fugitives received between $40 million and $180 million in Social Security benefits in 1999. The midpoint of that range ($110 million) reflected an estimated 15,000 fugitives with an average benefit of almost $600 per month. Assuming that their number and average benefits keep pace with the overall program, CBO extrapolated that total to $130 million in 2004 and $175 million in 2013.

CBO expects, however, that savings would fall short of those figures. First, large-scale enforcement poses challenges. By tapping the National Crime Information Center (NCIC) and obtaining data directly from some states that do not report fully to the NCIC, SSA already has automated access to more than 80 percent of fugitive warrants. But the SSI experience shows that some records lack key information, such as full name and Social Security number, for an accurate match; some subjects are incarcerated (and have their benefits suspended under other provisions of law); some are even victims of identity theft. Verification, when successful, takes about two months, so that even a swift suspension almost inevitably involves some overpayments that are difficult to recover. Based on those hurdles, CBO assumes that about 60 percent of the savings identified by the IG are attainable.

Second, some people spotted when checking fugitive lists clear their records when their benefits stop, resulting in little or no long-term savings. Law-enforcement authorities focus on the most-serious offenders (either pursuing them aggressively or arresting them on new offenses) but rarely clear other warrants from the books. Thus, remaining warrants are disproportionately older—about 15 percent of state warrants, for example, are more than 10 years old—and usually cite nonviolent offenses such as drug possession and probation or parole violation. In such cases, "fugitives" with no subsequent convictions typically face nothing worse than a suspended sentence or probation. Some will take that calculated risk and voluntarily contact authorities. In a new study of the SSI provisions, the Inspector General found that one-third of people suspended under the fugitive provisions sometime during the 1996-2002 period were receiving SSI in February 2003, having satisfied their warrants. CBO thus subtracted another one-third from the potential savings, bringing the result to 40 percent of the IG's figure. CBO assumes those savings are attainable about two years after enactment. Early savings are more modest, as SSA signs data-sharing agreements with more states, writes regulations, and follows its verification and notice practices.

CBO assumes that 80 percent of fugitives who would be affected by this provision are disabled beneficiaries who qualify for Medicare. If they lost their health benefits too, extra savings in 2013 (when their average Medicare benefits—about $9,600—almost match their assumed Social Security benefits, $9,900) could reach $54 million. However, their Social Security benefits would be suspended, not terminated. Suspension does not interrupt Medicare eligibility. Some Medicare savings would probably occur simply because beneficiaries fail to realize they remain eligible, fear using their Medicare card, or stop paying the premium (which is usually withheld from Social Security checks) for Part B coverage. CBO estimates that the resulting drop in use of Medicare benefits would save about half as much as an outright ban, or about $27 million in 2013.

Information on Pensions from Noncovered Employment. State and local governments have been permitted to join Social Security since the 1950s. The Census Bureau counts 14 million active members and 6 million beneficiaries in 2,200 state and local government retirement plans. About one-quarter are not covered by Social Security. Most are clustered in a few states: California, Colorado, Georgia, Illinois, Louisiana, Maine, Massachusetts, Missouri, Ohio, and Texas. Elsewhere, exempt employees (if any) are usually police officers or firefighters.

A retiree with a pension from noncovered state or local employment, or from the federal system that covers civil servants hired before 1984, may have his or her Social Security benefit reduced or eliminated by two provisions of current law: the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO). CBO estimates that the GPO and WEP, as currently administered, will save Social Security $56 billion over the 2004-2013 period and that H.R. 743 would boost that by $2.1 billion. Because the GPO and WEP provisions also are discussed later, here is a brief description.

- Since 1986, the WEP has trimmed benefits for noncovered annuitants with "split careers"–those who also worked long enough in covered employment to qualify for Social Security (primary beneficiaries, in the program's lexicon). It removes the tilt in favor of lower earners from their benefit formula. Social Security benefits depend on lifetime earnings, usually averaged over 35 years. Low average earnings, however, could result just as well from 25 years of well-paid noncovered work and 10 years under Social Security as from decades of covered employment at modest earnings. The Congress enacted the WEP, a slimmed-down formula that applies when workers also have an annuity from noncovered work, to make that distinction.[1]

- The GPO reduces Social Security benefits when the annuitant qualifies for benefits as a spouse or widow(er)—that is, as secondary beneficiaries. The GPO's drafters likened it to Social Security's rules for other two-earner couples. A wife, for example, collects on her husband's record only if the resulting benefit (about half of his) exceeds her own retired-worker benefit. She cannot combine the two amounts. Specifically, the GPO trims the Social Security benefit by $2 for every $3 of the noncovered pension—often erasing it entirely. The Congress acted quickly to enact the GPO after the Supreme Court held in 1977 that Social Security programs could no longer discriminate on the basis of gender.

For federal civil service retirees, SSA enforces the GPO and WEP provisions by matching data from the Office of Personnel Management. Otherwise, it must rely on claimants' reports and alert employees to spot potential GPO and WEP cases. (SSA staff ask about government pensions and are trained to notice gaps in earnings histories that may suggest noncovered employment.) H.R. 743 would direct the Internal Revenue Service (IRS) to require administrators of state and local pension plans to add coverage status to payment reports, presumably the 1099-R forms sent to participants and to the IRS, and share that information with SSA.

Studies in the mid-1990s by the General Accounting Office (GAO) and SSA of Illinois and Ohio pensioners, respectively, found that SSA had missed about 9 percent of people who ought to have been subject to GPO or WEP. State and local annuitants make up almost exactly half of people affected by the provisions. If the Illinois and Ohio patterns are typical, that suggests about 4.5 percent of potential cases avoid the GPO and WEP reductions. In fact, CBO assumed that figure had improved since the mid-1990s, through greater staff

1. All Social Security benefits are based on a Primary Insurance Amount (PIA), which in turn depends on Average Indexed Monthly Earnings (AIME). For a retired worker, AIME is calculated by adjusting past earnings to current values, then averaging the top 35 years–essentially, ages 22 through 61, with the lowest 5 years dropped. For someone who reaches 62 in 2003, the PIA equals 90 percent times the first $606 of AIME, 32 percent times the next $3,047, and 15 percent times AIME over $3,653, if any. (Those "bend points" rise with average wages.) The WEP formula generally uses 40 percent in place of the 90 percent factor. It makes exceptions for annuitants with at least 20 years of covered work and those with very small pensions.

experience plus enhanced data on earnings in noncovered employment after 1977 (when the government switched from quarterly to annual crediting of wages). Thus, CBO substituted a 4 percent error rate.

CBO assumed that SSA would gain access to IRS data from the biggest noncovered plans even as IRS and SSA work out what changes, if any, to require in future 1099-R reports. By targeting in that way, CBO assumes that SSA could use some reports of pension income in 2004, which will be filed in 2005, to target the first batch of cases for suspension or reduction in 2006. SSA would also launch efforts to recover past overpayments to those beneficiaries. Although a few overpayments would stretch back 20 years, the average would be roughly 6 years. Some would not be recovered; SSA's most effective tool is to withhold them from regular monthly benefits, but the GPO–unlike the WEP–often erases the entire benefit. CBO assumed one-third of the overpayments would not be recovered and that SSA would recoup the bulk of the rest within the 4 years after discovery. As SSA matches with more pension plans' reports each year, annual savings would mount to an estimated $300 million in 2009, peak at $330 million in 2010, then stabilize as recoveries fade in importance.

Cross-program Recovery of Overpayments. As noted above, SSA's best tool for recovering overpayments is to subtract them from regular monthly checks. Current law permits SSA to do that under both titles II (Social Security) and XVI (SSI) of the Social Security Act, although deductions may not exceed 10 percent of monthly income in SSI.

Special rules apply when SSI recipients qualify for Social Security. If an SSI beneficiary receives a Social Security award that includes retroactive benefits, all of his or her SSI benefits for the same months are withheld from that lump-sum check. And if he or she has stopped receiving SSI but gets monthly Social Security checks, past SSI overpayments can be withheld, within limits.

Almost one-third of disabled adults on SSI get Social Security, and some title II beneficiaries formerly received SSI. As a means-tested program, SSI permits recipients to keep $20 a month of unearned income (which includes Social Security) and offsets the rest.

In 2001, SSA found 130,000 people who were getting SSI when they should have received Social Security in addition or instead. Further digging by SSA boosted that number to about 300,000. (Some are no longer receiving benefits.) Labeled "special-workload" cases, those people are entitled to a lump-sum payment for the months they should have received Social Security. Because of the programs' interactions, that lump-sum check will be split: for example, of a retroactive check for $300 a month for five years, $1,200 will go to the individual and $16,800 will go from the trust funds to the general fund of the Treasury as a recovered overpayment. SSA anticipates that about $4 billion of the lump-sum payments to special-workload cases will be sent to the Treasury under that rule.

The law, though, limits SSA's powers of "cross-program recovery" in certain narrow situations. Most immediately, it fails to cover some special-workload cases with SSI overpayments unrelated to the months covered by the Social Security award. If the two periods do not match exactly, SSA must withhold those unrelated overpayments chiefly from future Social Security benefits, not from the lump-sum check. H.R. 743 would authorize SSA to deduct them from the lump-sum. It also would authorize cross-program recovery in the rare cases where an SSI-only beneficiary has outstanding title II overpayments. (Current law has no provision for recovering Social Security overpayments from SSI benefits.)

Based on information from SSA, CBO estimates that enhanced tools for cross-program recovery would increase SSI recoveries by $223 million over 10 years and Social Security recoveries by $26 million. The SSI savings largely come from speeding up recoveries that SSA would have achieved eventually. Thus, most of the savings occur in 2004 through 2007 as SSA finishes processing the special workload.

Denial of Title II Benefits to Aliens Not Authorized to Be Employed in the United States. Section 212 of H.R. 743 would stipulate that, effective in January 2004, noncitizens who claim Social Security benefits must have been issued a Social Security number (SSN) "consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(I) [of the Social Security Act]." Those subclauses spell out the rules for assigning SSNs to aliens who are authorized to work in the United States: those admitted as legal permanent residents, and those who enter in another category (such as student or tourist, or "legal temporary resident" under the 1986 amnesty) and later change their status to legal permanent resident. The huge majority of native-born citizens, in contrast, receive SSNs soon after birth.

Subclause II of the same section governs the issuance of special numbers for nonwork purposes—specifically, when individuals seek benefits from federal, state, or local programs that require an SSN. Although there are no documented cases where an individual received Social Security benefits solely on a nonwork SSN, there are hypothetical situations where benefits might be paid.

In CBO's judgment, H.R. 743 essentially reiterates the current-law link between Social Security benefits and valid SSNs, and thus would lead to little or no savings.

Title III—Attorney Representative Fee Payment System Improvements. Many Social Security claimants, especially disability applicants who win benefits on appeal, are represented by attorneys. A standard fee agreement between attorney and client pledges that the attorney will receive 25 percent of any past-due benefits up to a cap of $5,300. (That cap stood at $4,000 for more than a decade until SSA raised it in 2002.) When SSA awards

OASDI benefits in such cases, it pays the attorney fee directly from the past-due amounts. In contrast, when SSA awards SSI benefits only, or denies all benefits, the attorney must seek his or her fee from the client. Processing attorney fees is a labor-intensive chore, and in 1999 the Congress permitted SSA to withhold up to 6.3 percent of the amounts paid to offset some of those costs.

SSA pays attorney fees in about 200,000 OASDI cases and concurrent (OASDI and SSI) cases a year. The average fee, still dampened by the $4,000 lid, is now about $2,700, and the average processing charge about $170. By 2013, CBO expects that annual volume will be about 240,000, the average fee about $3,600, and hence the average charge about $225. H.R. 743 proposes to cap the charge at $75 with future adjustments for inflation. That would erase more than half of expected receipts, a loss of $34 million in 2013. CBO estimates that over the 2004-2013 period the proposed fee cap would cost $275 million.

Title IV—Miscellaneous and Technical Amendments. This title contains a variety of provisions with significant budgetary effects.

Demonstration Projects. H.R. 743 would amend sections of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) that govern SSA's research and demonstration projects. It would permanently authorize SSA to waive certain provisions of law, when appropriate, for demonstration projects. Currently such waivers expire in December 2004, even for projects already launched. The Congress first adopted the waiver language in 1980 and has extended it four times since then. In the near term, SSA does not plan to use such waivers extensively other than for the $1-for-$2 demonstrations (see below). In the longer term, because SSA has no specific pipeline of projects, CBO estimates spending on such projects of about $5 million a year, a typical level for the 1990-2002 period (adjusted for inflation).

Disability Insurance (DI) beneficiaries face limits on their earnings. Applicants who earn more than $800 a month (labeled substantial gainful activity, or SGA) in 2003 cannot qualify for DI; beneficiaries who make more than that for a nine-month trial work period and three-month grace period lose their entire check, although they retain Medicare and some other privileges. The 1999 law directed SSA to conduct demonstrations in which checks would be reduced by $1 for each $2 of earnings over certain thresholds. But that law left unclear how the projects would be funded. H.R. 743 clarifies that SSA would pay benefits from the trust fund and other costs for the demonstrations from its appropriation for administrative expenses.

Permission to Operate Divided Retirement Systems. Under section 218 of the Social Security Act, 21 states are allowed to operate retirement systems in which some but not all employees are covered under Social Security. In divided systems, new employees must pay Social Security tax, but employees already on the payroll may choose their coverage. H.R. 743 would extend that to all states.

A planned merger of two Louisville-area fire and police departments spurs this provision. That merger involves about 1,300 employees. CBO assumes that 200 of them would choose Social Security, and 60 or so new hires each year would add to their ranks. Extra Social Security taxes would grow from $1 million in 2004 to $5 million in 2013. Workers who switch coverage can avoid or soften the GPO and the WEP. Only a few of the newly covered employees, though, would qualify for Social Security in the next 10 years, and CBO estimates extra benefits of $1 million in 2013 (with effects of less than $500,000 a year before then).

Extending divided-retirement authority to all states would avoid the need for piecemeal legislation in the future. CBO and SSA have not found widespread interest elsewhere, although isolated situations like Louisville's may occur. Noncovered states have resisted mandatory coverage, and no state has been added to the divided-retirement list since 1977. (In fact, Congress acted in 1983 to bar states that already had coverage agreements from ending them.) Therefore, CBO assumes negligible effects aside from the Louisville merger.

60-month Employment Requirement for Exemption from Government Pension Offset. H.R. 743 would limit a tactic that some public employees are using to skirt the GPO. The GPO applies to state and local retirees whose last day of employment under their pension plan was not covered under Social Security. The General Accounting Office reports that some workers discovered that by switching jobs for a short time—sometimes just one day—they can avoid a lifetime of GPO-related reductions. Specifically, GAO found 4,800 such transfers through June 2002; nearly all were in Texas. H.R. 743 would replace the "last-day" rule with a 60-month requirement—the same rule that applies to federal civil servants.

CBO had to estimate how the job-switching detected by GAO might evolve over time. Of the 4,800 transfers that GAO found, 3,500 occurred in 2002 alone, where they amounted to a quarter of retirements in the Teachers' Retirement System of Texas. GAO found only a handful of cases outside Texas but voiced concern that the practice would spread.

To gauge that possibility, CBO looked at retirement plans in other states with large noncovered sectors. CBO concluded that conditions in Texas are uniquely favorable to "last-day" switches. Texas combines a huge noncovered sector, a small covered sector, and a statewide plan that recognizes service in both. Elsewhere, employees who sought a covered job would have to change occupations (for example, from law enforcement to teacher) and give up some advantages of their original plan; in some states, such as Ohio and

Massachusetts, no covered positions exist. California, with its mix of covered and noncovered jurisdictions, bears the closest resemblance to Texas but has a much smaller noncovered sector and thus fewer employees with an incentive to switch. If the "last-day" rule remains intact, states may face pressure from employees to amend their plans to accommodate such transfers. But amending a plan, especially when the state legislature must approve, is complex and time-consuming.

Under current law, CBO assumes that annual transfers spurred by the "last-day" rule will climb to 7,000 in 2004—twice the number in 2002, enough to accommodate further growth in Texas (where the practice clearly had not peaked) and some spillover to other states. Under H.R. 743, significant savings in Social Security would follow in about seven years. That lag stems from the programs' contrasting rules for eligibility: a typical retiree under the Texas teachers' plan qualifies for a pension at age 55 and (if the GPO does not erase it) for Social Security at age 62. Thus, the first batch of 7,000 annuitants who retire in calendar 2004 would reach 62 in 2011. Spouses and widow(er)s affected by the GPO in December 2002 saw their Social Security reduced by an average of $325 and $505, respectively, or about $400 overall. Adjusting those figures for inflation and for the age and sex of the affected group led CBO to estimate those 7,000 would lose an average of $475, or $4 million in December 2011. By December 2013, three cohorts of retirees push the monthly savings up to $10 million; savings in fiscal year 2013 equal $80 million.

Real-life cases would be more varied than these simple examples. Some annuitants retire after 55 (and reach 62 years old before 2011); some are widowed (and qualify for Social Security at age 60, not at age 62); and others must wait for a younger spouse to reach 62 years old. But these typical cases illustrate why CBO estimates small savings through 2010 and rapidly growing amounts after that.

Military Wage Credits. The original Social Security Act of 1935 did not cover members of the armed services. The 1950 Act provided them with free wage credits of $160 a month for 1940 through 1947. Later acts kept those "deemed" credits even after Social Security began to cover members' basic pay in 1956. The 1967 amendments set deemed credits at $300 a quarter, where they remained until 2002. The credits were an *ad hoc* way to acknowledge the noncash allowances—for food, housing, and so forth—that supplemented basic pay. Until 1983, the services reimbursed Social Security intermittently for the estimated cost of the resulting benefits. The Congress then amended the law to require annual payments, which amounted to about $300 million a year in the 1980s and 1990s—about $10 million annually from small agencies (the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration) and the rest from the Department of Defense.

The Congress repealed deemed military credits in the 2002 defense appropriation bill. By then, however, the Defense Department had failed to pay amounts owed for 2000 and 2001. (The smaller agencies had kept up their contributions.)

H.R. 743 would transfer $903 million—the Social Security actuaries' estimate of arrears plus interest—from the Treasury to the trust funds. Intragovernmental transfers do not affect total outlays or the deficit. Here, however, they would have one peculiar effect: the entire $903 million payment would count as an on-budget outlay, as would the receipt by Hospital Insurance ($173 million), but the rest ($730 million) would be credited to Social Security as an off-budget receipt.

Other Provisions Affecting Social Security. H.R. 743 would broaden the Work Opportunity Tax Credit to cover people who use a ticket for vocational rehabilitation (VR) under the 1999 law. That credit, which expires after December 2003, allows employers to subtract up to 40 percent of the first $6,000 of wages from income tax when they hire members of targeted groups. People referred by state VR agencies are one such group; H.R. 743 would add DI and SSI beneficiaries who choose other VR providers, such as private firms or nonprofit organizations. The first tickets were distributed in 2002 and nationwide implementation will take three years. The Joint Committee on Taxation estimates that broadening eligibility for the tax credit would reduce revenues by $2 million in 2004.

Title IV would expand eligibility for widows' and widowers' benefits in narrow circumstances. To collect Social Security on a deceased worker's record, a widow or widower must either have been married to the worker for nine months or be actively caring for the worker's child. Lawmakers recently learned about an unusual case in which a worker could not marry his longtime companion because state law forbade him from divorcing his wife, who was in a mental institution. When his wife's death finally permitted him to remarry, he was already terminally ill and died a few months later. H.R. 743 would waive the duration-of-marriage requirement in those rare circumstances. Only one such case has come to light and CBO expects that the provision would have little cost.

Increase Resource Limits in SSI. H.R. 743 would increase the amount of countable resources that an individual or couple may own and still qualify for SSI. Under current law, to be eligible for SSI, an individual can have countable resources valued at up to $2,000, while couples can have resources of up to $3,000. (Besides the applicant's own resources, SSA counts resources belonging to others in some situations—to parents of disabled children, and to sponsors of immigrants.) Those ceilings have not changed since 1989. Countable resources include cash, liquid assets, and real or personal property that could be converted to cash. Some items—including the value of a primary residence, an automobile, medical equipment, and certain household goods—are not counted. Resources are only used to determine whether someone is eligible for SSI; they do not determine benefit amounts.

The legislation would increase the resource limits to $3,000 for individuals and $4,500 for couples beginning in January 2004. After 2004, the limits would rise by the annual cost-of-living adjustment granted to SSI recipients. By increasing the resource limits, the act would allow more people to become eligible for the program and reduce the amount of time it takes some applicants to "spend down" their assets to become eligible. It also would affect some current beneficiaries who lose benefits, either temporarily or permanently, when their countable resources grow.

CBO estimates the provision would gradually increase SSI enrollment up to about 18,000 additional people in 2006 and about 21,000 in 2013. CBO based its estimate on information from SSA about the characteristics of applicants and beneficiaries who would be affected and assumptions about how long the current limits bar them from the program. Applicants who are rejected for excess resources are older, on average, than the current SSI caseload; are more likely to have other income that would trim their SSI benefit; and, CBO assumes, might prevail on a second or third application even under current law as they draw down their resources for living expenses.

In most states, SSI eligibility automatically confers entitlement to Medicaid benefits. For these predominantly adult cases, CBO assumes that the average Medicaid cost would greatly exceed the SSI benefit. We estimate that H.R. 743 would increase spending on SSI by $6 million in 2004, $78 million over the 2004-2008 period, and $198 million over the 2004-2013 period. We also estimate that it would increase federal Medicaid outlays by $45 million in 2004, $870 million over the 2004-2008 period, and $2.9 billion over the 2004-2013 period.

Part of that effect comes from additional participants in the Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) programs, who do not necessarily receive SSI. Under those programs, Medicaid pays some or all of the premiums and cost-sharing under Parts A and B of Medicare for enrollees who have incomes below 120 percent of the federal poverty level and countable assets up to two times the resource limit used in the SSI program. By raising and indexing the resource limit in SSI, H.R. 743 would set that threshold at about $7,500 in 2013, compared with $4,000 under current law.

Based on current participation in the programs, CBO estimates that the act would eventually increase the number of QMB and SLMB beneficiaries by about 225,000. That effect would occur gradually, with most of the cost in the second half of CBO's 10-year horizon. The extra participants would increase federal Medicaid spending for the QMB and SLMB programs by $10 million in 2004, $380 million over the 2004-2008 period, and $1.5 billion over the 2004-2013 period. (Those amounts are a subset of the Medicaid totals cited above.)

CBO estimates that additional participation in the QMB program would increase Medicare spending as well. That program covers all Medicare cost-sharing for enrollees with incomes below the federal poverty level and limited assets. CBO anticipates that new QMB participants would use more Medicare services than under current law because they would no longer have to pay anything for them. As a result, CBO estimates extra Medicare spending (net of premiums) of $5 million in 2004, $195 million over the 2004-2008 period, and $725 million over the 2004-2013 period.

Review of State Agency SSI Awards. H.R. 743 would require SSA to conduct reviews of initial decisions to award SSI benefits to certain disabled adults. The legislation would direct SSA to review at least 25 percent of all favorable adult-disability determinations made by the states' Disability Determination Service (DDS) offices in 2004. The agency would have to review at least half of the adult-disability awards made by DDS offices in 2005 and beyond.

CBO anticipates that state DDS offices will approve between 350,000 and 400,000 SSI claims from disabled adults annually between 2004 and 2013. Based on similar reviews in the Social Security Disability Insurance program, CBO projects that by 2013 the extra reviews would ultimately overturn more than 20,000 of those awards, leading to lower outlays for SSI and Medicaid. CBO estimates that the provision would reduce SSI benefits by $3 million and Medicaid outlays by $4 million in 2004. Over the 2004-2013 period, CBO estimates the savings at $425 million in SSI and $1.1 billion in Medicaid.

Other SSI Provisions. H.R. 743 would make a limited exception to SSI's retrospective monthly accounting when a claimant has certain nonrecurring income. An SSI check may fluctuate depending on a recipient's other income. Retrospective monthly accounting is used to determine those benefit amounts. When someone first qualifies for SSI, the amount of countable income in the first month determines benefits for the first three months of eligibility. Thus, nonrecurring income in that first month can shrink benefits in the next two months. H.R. 743 would permit SSA to exclude certain nonrecurring income when calculating SSI benefits for the second and third (but not the first) month. Based on data provided by SSA, CBO estimates the provision would increase benefits by an average of $160 per month for around 1,000 beneficiaries in 2004. Although costs in any single year would not reach $500,000, the provision would increase outlays by a total of $1 million over the 2004-2008 period, and $2 million over the 2004-2013 period.

H.R. 743 also would enable some blind or disabled children of U.S. military personnel stationed overseas to receive SSI. Under current law, those children may continue to collect SSI only if they were already eligible when the family moved overseas. The legislation would allow them to qualify overseas even if they did not previously receive SSI. Based on information from SSA, CBO expects the provision would add fewer than a dozen children, some of them infants born overseas, to the SSI rolls at an average benefit of about $500 a month. Extra costs would not reach $500,000 in any year but would total about $1 million over the 2004-2013 period.

Finally, H.R. 743 proposes several liberalizations to the SSI program that, in CBO's estimate, each would cost less than $500,000 over the 2004-2013 period. They include:

- Expanding the exclusions for certain infrequent or irregular income;
- Making the 9-month resource exclusion periods uniform;
- Modifying the dedicated account requirement;
- Eliminating certain restrictions on student earned income;
- Excluding AmeriCorps and other volunteer benefits from income;
- Changing the treatment of education-related income and resources; and
- Altering the monthly treatment of uniformed service compensation.

Spending Subject to Appropriation

H.R. 743 would increase SSA's administrative cost by increasing standards for certain program integrity activities and by slightly increasing program caseloads. These costs are subject to annual appropriation and are thus classified as discretionary spending. CBO estimates added costs would be $19 million in 2004, $113 million over the 2004-2008 period and $240 million through 2013. About two-thirds would be for SSI administration with the remainder for the OASDI program.

Title I. H.R. 743 would require SSA to monitor representative payees more stringently. Currently, SSA conducts on-site inspections every three years for high-volume payees—organizations serving more than 100 beneficiaries and individuals (such as attorneys) serving more than 20; the legislation would lower those thresholds to 50 and 15 beneficiaries, respectively. That would permanently add about $4 million a year to SSA's costs. H.R. 743 also would require SSA to enforce bonding and licensing requirements, redirect benefit checks when a representative payee fails to file an annual accounting, and compensate beneficiaries for any funds misused by organizational payees since 1995. Those costs would be largest in the early years of implementation, pushing SSA's required funding for title I to an estimated $8 million in 2004 and $6 million in 2005. Social Security and SSI would each account for about half of those amounts.

Title II. Provisions of title II to bar fugitives from receiving Social Security benefits and to enforce the GPO and WEP using IRS information also would entail administrative costs, especially in the early phases. Obtaining the IRS data is just the first step; SSA must match to its records and follow-up potential cases manually, at an estimated cost of $250 each. Some investigations will lead nowhere; some people will be exempt because they collect a survivor payment (not a retirement annuity) from state or local government, or qualified before the GPO or WEP took effect. CBO assumes that SSA will track down 3 cases for every 2 ultimately affected. Once SSA finds them, however, annual costs are more modest, chiefly to verify the pension amount in case of cost-of-living adjustments or other changes. CBO assumes that using 1099-R reports of pension income to help enforce the GPO and WEP provisions would ultimately boost the number of GPO and WEP cases by about 4 percent, or 60,000 people by 2013. To get there, CBO assumes that SSA would detect more than 300,000 apparent matches, weed out 200,000 based on information already in its records, and investigate the remaining 100,000 intensively. Costs would peak at $8 million in 2006, as SSA uses the first batch of IRS information, before subsiding. Enforcing the fugitive provision would cost SSA $1 million to $2 million annually, chiefly because SSA already screens fugitive lists to enforce the ban in SSI.

Title IV. Title IV would increase SSA's costs of administering the SSI program. Lifting the resource limit would increase the number of beneficiaries. Most of the new beneficiaries, however, would apply and be rejected under current law; changing these denials to allowances would not involve significant costs. The new reviews of state agency allowances—roughly 125,000 cases annually when fully phased-in—would cost $145 million over the 2004-2013 period. On top of the reviews, which are estimated to cost about $100 each (in 2004 dollars), SSA estimates some additional start-up costs in the first year. Thus, the estimated annual costs would rise from $9 million in 2004 to $17 million in 2013.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

The Joint Committee on Taxation has reviewed the tax provisions of the act and determined that those provisions contain no intergovernmental or private-sector mandates as defined in UMRA.

Section 4 of UMRA excludes from that law's requirements any provision in a bill or act that relates to the OASDI programs under title II of the Social Security Act. The provisions of H.R. 743 that amend title II of the Social Security Act fall within that exclusion.

Other provisions of H.R. 743, however, contain mandates as defined in UMRA. The act would preempt state laws that might otherwise prohibit the exchange of information between

SSA and state and local law enforcement officers conducting background checks on representative payees. That preemption could limit the application of state privacy laws in some cases, but it would impose no duty on state or local governments that would result in additional spending.

H.R. 743 also would exempt the Railroad Retirement Investment Trust from state and local taxes. The Trust was created in 2002 to invest most of the funds of the government's Railroad Retirement program. CBO has found no state that has attempted to collect or plans to collect any type of tax from the Trust. Consequently, CBO estimates that this preemption of state taxing authority, while an intergovernmental mandate as defined in UMRA, would result in no significant revenue losses to state or local governments, and any potential losses would be far below the threshold established in UMRA ($60 million in 2004, adjusted annually for inflation).

Finally, the act would alter income and eligibility requirements in the SSI program. Because SSI beneficiaries are eligible for Medicaid, CBO estimates that state spending for Medicaid would increase by about $2.2 billion over the 2004-2013 period. However, states have significant flexibility in Medicaid to alter their programmatic responsibilities, so this additional spending would not be the result of a mandate as defined in UMRA.

H.R. 743 contains one private-sector mandate as defined in UMRA. It would prohibit private entities from charging a fee for products and services that are available for free from SSA, unless they disclose that alternative when they make the offer. CBO estimates that the resulting cost to the private sector would not exceed the threshold established in UMRA ($120 million in 2004, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE

On March 20, 2003, CBO transmitted a cost estimate for H.R. 743 as ordered reported by the House Committee on Ways and Means on March 13, 2003. We estimated that version of H.R. 743 would lead to a combined $655 million in direct spending reductions and revenue increases over the 2004-2013 period. This version totals $594 million over the same period. Provisions that differ significantly between the two versions, and their effects on the 10-year totals, are:

- The nationwide study of representative payees (at a cost of $18 million);

- A provision of the House version, dropped by the Senate, that would temporarily extend the attorney-fee program to SSI (forgoing receipts of $26 million);

- New provisions to enforce the GPO and WEP using IRS information (saving $2.1 billion) and to allow additional cross-program recovery (saving $249 million);

- Permanent authority for SSA to grant waivers in demonstration projects involving Social Security disability beneficiaries (at an estimated cost of $42 million); and

- All of the SSI provisions in title IV, subtitle D of the Senate version (net cost of $2.3 billion).

ESTIMATE PREPARED BY:

Federal Spending:
Social Security—Kathy Ruffing
SSI—Geoffrey Gerhardt
Medicaid Eric Rollins

Federal Revenues: Edward Harris and Annabelle Bartsch

Impact on State, Local, and Tribal Governments: Leo Lex

Impact on the Private Sector: Ralph Smith

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis