

103^D CONGRESS
1ST SESSION

H. R. 1045

To amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have coverage under both systems to obtain maximum benefits based on their combined service.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mrs. BYRNE introduced the following bill; which was referred jointly to the Committees on Ways and Means and Post Office and Civil Service

A BILL

To amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have coverage under both systems to obtain maximum benefits based on their combined service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title II of the Social Security Act is amended by add-
4 ing at the end thereof the following new section:

1 “EXCHANGE OF CREDITS BETWEEN SOCIAL SECURITY
2 AND CIVIL SERVICE RETIREMENT SYSTEMS
3 “SEC. 230. UNDER REGULATIONS PRESCRIBED BY
4 THE SECRETARY IN CONSULTATION WITH THE CIVIL
5 SERVICE COMMISSION.—

6 “(a)(1) If an individual age 65 or over—

7 “(A) is eligible for any annuity under sub-
8 chapter III of chapter 83 of title 5, United
9 States Code, and has been credited with wages
10 or self-employment income (or both) for pur-
11 poses of this title but is not eligible for benefits
12 under section 202(a), or

13 “(B) is eligible both for benefits under sec-
14 tion 202(a) and for an annuity under sub-
15 chapter III of chapter 83 of such title 5, but
16 the monthly total of such benefits plus such an-
17 nuity is less than the monthly amount to which
18 such annuity would be increased if the wages
19 and self-employment income with which he has
20 been credited for purposes of this title had in-
21 stead constituted basic pay for employment
22 creditable for civil service retirement purposes
23 under section 8332 of such title 5, or

24 “(C) is not eligible either for benefits
25 under section 202(a) or for an annuity under

1 subchapter III of chapter 83 of such title 5, but
2 (i) he would be eligible for an annuity under
3 such subchapter III if all wages and self-em-
4 ployment income with which he has been cred-
5 ited for purposes of this title had instead con-
6 stituted basic pay for employment creditable for
7 civil service retirement purposes under section
8 8332 of such title 5, and (ii) the monthly
9 amount of such annuity would be greater than
10 the monthly amount of any benefits for which
11 he would be eligible under section 202(a) if the
12 amount of any basic pay which he actually re-
13 ceived for employment so creditable had instead
14 constituted wages or self-employment income
15 for purposes of this title,

16 then, upon written request filed by or on behalf of
17 such individual (in such manner and form as may be
18 provided in such regulations), all wages and self-em-
19 ployment income with which such individual has
20 theretofore been credited for purposes of this title
21 shall be treated for purposes of such subchapter III
22 (effective with respect to months after the month in
23 which the request is filed) as constituting basic pay
24 received by such individual for employment cred-
25 itable under section 8332 of such title 5, and as hav-

1 ing been received in the same amounts and at the
2 same times as they were actually received for pur-
3 poses of this title; and the entries in the Secretary's
4 records with respect to such wages and self-employ-
5 ment income shall thereupon be deleted.

6 “(2) If an individual age 65 or over—

7 “(A) is eligible for benefits under section
8 202(a), and has been credited with basic pay
9 for employment creditable for civil service re-
10 tirement purposes under section 8332 of title 5,
11 United States Code, but is not eligible for an
12 annuity under subchapter III of chapter 83 of
13 such title, or

14 “(B) is eligible both for benefits under sec-
15 tion 202(a) and for an annuity under sub-
16 chapter III of chapter 83 of such title 5, but
17 the monthly total of such benefits plus such an-
18 nuity is less than the monthly amount to which
19 such benefits would be increased if the basic
20 pay with which he has been credited for civil
21 service retirement purposes under section 8332
22 of such title 5 had instead constituted wages or
23 self-employment income for purposes of this
24 title, or

1 “(C) is not eligible either for benefits
2 under section 202(a) or for an annuity under
3 subchapter III of chapter 83 of such title 5, but
4 (i) he would be eligible for benefits under sec-
5 tion 202(a) if all basic pay with which he has
6 been credited for civil service retirement pur-
7 poses under section 8332 of such title 5 had in-
8 stead constituted wages or self-employment in-
9 come for purposes of this title, and (ii) the
10 monthly amount of such benefits would be
11 greater than the monthly amount of any annu-
12 ity for which he would be eligible under sub-
13 chapter III of chapter 83 of such title 5 if the
14 amount of any wages and self-employment in-
15 come which he actually received for purposes of
16 this title had instead constituted basic pay cred-
17 itable under section 8332 of such title 5,

18 then, upon written request filed by or on behalf of
19 such individual (in such manner and form as may be
20 provided in such regulations), all basic pay with
21 which such individual has theretofore been credited
22 for civil service retirement purposes under section
23 8332 of such title 5 shall be treated for purposes of
24 this title (effective with respect to months after the
25 month in which the request is filed) as constituting

1 wages and self-employment income, and as having
2 been received in the same amounts and at the same
3 times as they were actually received for purposes of
4 such subchapter III; and the entries in the Civil
5 Service Commission's records with respect to such
6 basic pay shall thereupon be deleted.

7 “(3) For purposes of paragraphs (1) and (2),
8 the ‘monthly amount’ of an individual’s benefit or
9 annuity includes (in addition to the monthly amount
10 which is or would be payable to such individual) the
11 monthly amount of any benefit or annuity which is
12 or would be payable to other persons on the basis of
13 such individual’s wages and self-employment income
14 (in the case of benefits under section 202) or on the
15 basis of his employment creditable under section
16 8332 of title 5, United States Code (in the case of
17 annuities under subchapter III of chapter 83 of such
18 title).

19 “(b)(1) Subject to paragraph (3), if a survivor
20 of a deceased individual—

21 “(A) is eligible for an annuity under sub-
22 chapter III of chapter 83 of title 5, United
23 States Code, on the basis of such individual’s
24 creditable employment, and such individual was
25 credited with wages or self-employment income

1 (or both) for purposes of this title but such sur-
2 vivor is not eligible for benefits under section
3 202(a) on the basis of such individual's wages
4 and self-employment income, or

5 “(B) is eligible both for benefits under sec-
6 tion 202(a) on the basis of such individual's
7 wages and self-employment income and for an
8 annuity under subchapter III of chapter 83 of
9 such title 5 on the basis of such individual's
10 creditable employment, but the monthly total of
11 such benefits plus such annuity for all survivors
12 of such individual is less than the monthly
13 amount to which such annuity for all such sur-
14 vivors would be increased if the wages and self-
15 employment income with which such individual
16 was credited for purposes of this title had in-
17 stead constituted basic pay for employment
18 creditable for civil service retirement purposes
19 under section 8332 of such title 5, or

20 “(C) is not eligible either for benefits
21 under section 202(a) on the basis of such indi-
22 vidual's wages and self-employment income or
23 for an annuity under subchapter III of chapter
24 83 of such title 5 on the basis of such individ-
25 ual's creditable employment, but (i) such survi-

1 vor would be eligible for an annuity under such
2 subchapter III on the basis of such individual's
3 creditable employment if all wages and self-em-
4 ployment income with which such individual
5 was credited for purposes of this title had in-
6 stead constituted basic pay for employment
7 creditable for civil service retirement purposes
8 under section 8332 of such title 5, and (ii) the
9 monthly amount of such annuity for all survi-
10 vors of such individual would be greater than
11 the monthly amount of any benefit for which
12 such survivors would be eligible under section
13 202(a) on the basis of such individual's wages
14 and self-employment income if the amount of
15 any basic pay which he actually received for
16 employment so creditable had instead con-
17 stituted wages of self-employment income for
18 purposes of this title,

19 then, upon written request filed by or on behalf of
20 such survivor (in such manner and form as may be
21 provided in such regulations), all wages and self-em-
22 ployment income with which such individual was
23 credited for purposes of this title shall be treated for
24 purposes of such subchapter III (effective with re-
25 spect to months after the month in which the re-

1 quest is filed) as constituting basic pay received by
2 such individual for employment creditable under sec-
3 tion 8332 of such title 5, and as having been re-
4 ceived in the same amounts and at the same times
5 as they were actually received for purposes of this
6 title; and the entries in the Secretary's records with
7 respect to such wages and self-employment income
8 shall thereupon be deleted.

9 “(2) Subject to paragraph (3), if a survivor of
10 a deceased individual—

11 “(A) is eligible for benefits under section
12 202(a) on the basis of such individual's wages
13 and self-employment income, and such individ-
14 ual was credited with basic pay for employment
15 creditable for civil service retirement purposes
16 under section 8332 of title 5, United States
17 Code, but no such survivor is eligible for an an-
18 nuity under subchapter III of chapter 83 of
19 such title on the basis of such individual's cred-
20 itable employment, or

21 “(B) is eligible both for benefits under sec-
22 tion 202(a) on the basis of such individual's
23 wages and self-employment income and for an
24 annuity under subchapter III of chapter 83 of
25 title 5 on the basis of such individual's cred-

1 itable employment, but the monthly total of
2 such benefits plus such annuity for all survivors
3 of such individual is less than the monthly
4 amount to which such benefits for all such sur-
5 vivors would be increased if the basic pay with
6 which such individual was credited for civil
7 service retirement purposes under section 8332
8 of such title 5 had instead constituted wages or
9 self-employment income for purposes of this
10 title, or

11 “(C) is not eligible either for benefits
12 under section 202(a) on the basis of such indi-
13 vidual’s wages and self-employment income or
14 for an annuity under subchapter III of chapter
15 83 of such title 5 on the basis of such individ-
16 ual’s creditable employment, but (i) such survi-
17 vor would be eligible for benefits under section
18 202(a) on the basis of such individual’s wages
19 on self-employment income if all basic pay with
20 which such individual was credited for civil
21 service retirement purposes under section 8332
22 of such title 5 had instead constituted wages or
23 self-employment income for purposes of this
24 title, and (ii) the monthly amount of such bene-
25 fits for all survivors of such individual would be

1 greater than the monthly amount of any annu-
2 ity for which such survivors would be eligible
3 under subchapter III of chapter 83 of such title
4 5 on the basis of such individual's creditable
5 employment if the amount of any wages and
6 self-employment income which he actually re-
7 ceived for purposes of this title had instead con-
8 stituted basic pay creditable under section 8332
9 of such title 5,

10 then, upon written request filed by or on behalf of
11 such survivor (in such manner and form as may be
12 provided in such regulations), all basic pay with
13 which such individual was credited for civil service
14 retirement purposes under section 8332 of such title
15 5 shall be treated for purposes of this title (effective
16 with respect to months after the month in which the
17 request is filed) as constituting wages and self-em-
18 ployment income, and as having been received in the
19 same amounts and at the same times as they were
20 actually received for purposes of such subchapter
21 III; and the entries in the Civil Service Commis-
22 sion's records with respect to such basic pay shall
23 thereupon be deleted.

24 “(3)(A) No request filed by a survivor of a de-
25 ceased individual under paragraph (1) or (2) of this

1 subsection shall be accepted by the Secretary as a
2 valid request unless—

3 “(i) a request is also filed under such para-
4 graph by every other living survivor of such in-
5 dividual who is eligible for benefits under sec-
6 tion 202 on the basis of such individual’s wages
7 and self-employment income or for an annuity
8 under subchapter III of chapter 83 of title 5,
9 United State Code, on the basis of such individ-
10 ual’s employment creditable under section 8332
11 of such title; and

12 “(ii) written consent to the filing of such
13 request is given by any living survivor of such
14 individual who is not eligible for such benefits
15 or such annuity but who could become so eligi-
16 ble upon attaining a specified age, upon the fil-
17 ing of such request or requests, or upon the oc-
18 currence of some other event.

19 “(B) No request may be filed by any survivor
20 of a deceased individual under this subsection if a
21 request was filed by such individual under subsection
22 (a) prior to his death.

23 “(c) No request may be filed by any individual
24 under subsection (a) or by any survivor of such indi-
25 vidual under subsection (b) if such individual has re-

1 ceived a refund of any part of the retirement deduc-
2 tions made from his basic pay under section 8334 of
3 title 5, United States Code, or the corresponding
4 provisions of prior law, unless and until the full
5 amount of such refund has been deposited with in-
6 terest as provided in section 8334(d) of such title.

7 “(d) Any request made under subsection (a) or
8 (b) shall be irrevocable.

9 “(e) For purposes of this section, an individual
10 is ‘eligible’ for benefits under section 202 or an an-
11 nuity under subchapter III of chapter 83 of title 5,
12 United States Code, if he is actually entitled to such
13 benefits or annuity or would be so entitled upon fil-
14 ing application therefor.

15 “(f)(1) If for any fiscal year beginning with the
16 fiscal year 1982 either the Federal Old-Age and
17 Survivors Insurance Trust Fund or the Civil Service
18 Retirement and Disability Fund, after taking into
19 account any additional administrative expenses in-
20 curred by it as a result of the operation of this sec-
21 tion, realizes a net gain (whether in the form of an
22 actual gain or a reduction in the amount of the net
23 loss it would otherwise have suffered) as a result
24 of—

1 “(A) the nonpayment of benefits or annu-
2 ities during such fiscal year with respect to in-
3 dividuals who would have been entitled to bene-
4 fits or annuities from such fund (or would have
5 been entitled to such benefits or annuities in
6 larger amounts) but for requests filed under
7 subsections (a) and (b) of this section, and

8 “(B) the increase in interest earned by
9 such fund because of the nonpayment or re-
10 duced payment of benefits or annuities pursu-
11 ant to such requests,

12 the Secretary of Health and Human Services shall
13 transfer from the Federal Old-Age and Survivors In-
14 surance Trust Fund to the Civil Service Retirement
15 and Disability Fund (if the Federal Old-Age and
16 Survivors Insurance Trust Fund is the fund realiz-
17 ing the gain), or the Civil Service Commission shall
18 transfer from the Civil Service Retirement and Dis-
19 ability Fund to the Federal Old-Age and Survivors
20 Insurance Trust Fund (if the Civil Service Retire-
21 ment and Disability Fund is the fund realizing the
22 gain), such amount as is jointly determined by the
23 Secretary and the Commission (in consultation with
24 the Secretary of the Treasury) to be equal to the
25 gain so realized, so as to place the transferring fund

1 in the same position (at the close of such fiscal year)
2 as it would have been in if this section had not been
3 enacted.

4 “(2) If for any fiscal year beginning with the
5 fiscal year 1982, after any transfer for such year
6 under paragraph (1), either the Federal Old-Age
7 and Survivors Insurance Trust Fund or the Civil
8 Service Retirement and Disability Fund is jointly
9 determined by the Secretary and the Commission (in
10 consultation with the Secretary of the Treasury) to
11 have suffered a loss on account of—

12 “(A) the payment of benefits or annuities
13 from such Fund during such fiscal year with re-
14 spect to individuals who would not have been
15 entitled to such benefits or annuities (or would
16 have been entitled to such benefits or annuities
17 in smaller amounts) but for requests filed under
18 subsections (a) and (b) of this section.

19 “(B) additional administrative expenses in-
20 curred by such Fund as a result of the payment
21 or nonpayment of benefits or annuities pursu-
22 ant to such requests, and

23 “(C) any loss of interest to such Fund as
24 a result of the payment of benefits or annuities
25 pursuant to such requests,

1 there is hereby appropriated to such fund such
2 amount as may be necessary to place it in the same
3 position at the close of such fiscal year as it would
4 have been in if this section had not been enacted.”.

5 SEC. 2. Section 8332 of title 5, United States Code,
6 is amended by adding at the end thereof the following new
7 subsection:

8 “(k) In accordance with section 230 of the Social Se-
9 curity Act (and notwithstanding any other provision of
10 this subchapter)—

11 “(1) credit shall be allowed for gainful activity
12 otherwise constituting employment or self-employ-
13 ment for purposes of title II of such Act to the ex-
14 tent that the wages and self-employment income re-
15 ceived for or derived from such employment or self-
16 employment is treated as basic pay for employment
17 creditable under this section pursuant to a request
18 filed pursuant to subsection (a)(1) or (b)(1) of such
19 section 230; and

20 “(2) credit shall not be allowed for service oth-
21 erwise creditable under this section to the extent
22 that the basic pay received for such service is treat-
23 ed as wages and self-employment income for pur-
24 poses of title II of such Act pursuant to a request

1 filed pursuant to subsection (a)(2) or (b)(2) of such
2 section 230.”.

3 SEC. 3. The amendments made by this Act shall
4 apply with respect to monthly benefits payable and annu-
5 ities accruing (and lump-sum payments in the case of
6 deaths occurring) after the fifth month following the
7 month in which this Act is enacted, on the basis of re-
8 quests filed (as provided in section 230 of the Social Secu-
9 rity Act, as added by the first section of this Act) on or
10 after the date of the enactment of this Act.

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