

106TH CONGRESS  
1ST SESSION

# S. 1168

To eliminate the social security earnings test for individuals who have attained retirement age, to protect and preserve the social security trust funds, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 27, 1999

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To eliminate the social security earnings test for individuals who have attained retirement age, to protect and preserve the social security trust funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **TITLE I—ELIMINATION OF SO-**  
4 **CIAL SECURITY EARNINGS**  
5 **TEST**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Older Americans Free-  
8 dom to Work Act”.

1 **SEC. 102. ELIMINATION OF EARNINGS TEST FOR INDIVID-**  
 2 **UALS WHO HAVE ATTAINED RETIREMENT**  
 3 **AGE.**

4 (a) IN GENERAL.—Section 203 of the Social Security  
 5 Act (42 U.S.C. 403) is amended—

6 (1) in subsection (c)(1), by striking “the age of  
 7 seventy” and inserting “retirement age (as defined  
 8 in section 216(l))”;

9 (2) in paragraphs (1)(A) and (2) of subsection  
 10 (d), by striking “the age of seventy” each place it  
 11 appears and inserting “retirement age (as defined in  
 12 section 216(l))”;

13 (3) in subsection (f)(1)(B), by striking “was  
 14 age seventy or over” and inserting “was at or above  
 15 retirement age (as defined in section 216(l))”;

16 (4) in subsection (f)(3)—

17 (A) by striking “33⅓ percent” and all  
 18 that follows through “any other individual,”  
 19 and inserting “50 percent of such individual’s  
 20 earnings for such year in excess of the product  
 21 of the exempt amount as determined under  
 22 paragraph (8),”; and

23 (B) by striking “age 70” and inserting  
 24 “retirement age (as defined in section 216(l))”;

1           (5) in subsection (h)(1)(A), by striking “age  
2       70” each place it appears and inserting “retirement  
3       age (as defined in section 216(l))”; and

4           (6) in subsection (j)—

5               (A) in the heading, by striking “Age Sev-  
6       enty” and inserting “Retirement Age”; and

7               (B) by striking “seventy years of age” and  
8       inserting “having attained retirement age (as  
9       defined in section 216(l))”.

10       (b) CONFORMING AMENDMENTS ELIMINATING THE  
11       SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE  
12       ATTAINED RETIREMENT AGE.—

13           (1) UNIFORM EXEMPT AMOUNT.—Section  
14       203(f)(8)(A) of the Social Security Act (42 U.S.C.  
15       403(f)(8)(A)) is amended by striking “the new ex-  
16       empt amounts (separately stated for individuals de-  
17       scribed in subparagraph (D) and for other individ-  
18       uals) which are to be applicable” and inserting “a  
19       new exempt amount which shall be applicable”.

20           (2) CONFORMING AMENDMENTS.—Section  
21       203(f)(8)(B) of the Social Security Act (42 U.S.C.  
22       403(f)(8)(B)) is amended—

23               (A) in the matter preceding clause (i), by  
24       striking “Except” and all that follows through  
25       “whichever” and inserting “The exempt amount

which is applicable for each month of a particular taxable year shall be whichever”;

(B) in clauses (i) and (ii), by striking “corresponding” each place it appears; and

(C) in the last sentence, by striking “an exempt amount” and inserting “the exempt amount”.

(3) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking “nor shall any deduction” and all that follows and inserting “nor shall any deduction be made under this subsection from any widow’s or widower’s insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.”; and

1 (B) in subsection (f)(1), by striking clause  
 2 (D) and inserting the following: “(D) for which  
 3 such individual is entitled to widow’s or wid-  
 4 ower’s insurance benefits if such individual be-  
 5 came so entitled prior to attaining age 60,”.

6 (2) CONFORMING AMENDMENT TO PROVISIONS  
 7 FOR DETERMINING AMOUNT OF INCREASE ON AC-  
 8 COUNT OF DELAYED RETIREMENT.—Section  
 9 202(w)(2)(B)(ii) of the Social Security Act (42  
 10 U.S.C. 402(w)(2)(B)(ii)) is amended—

11 (A) by striking “either”; and

12 (B) by striking “or suffered deductions  
 13 under section 203(b) or 203(c) in amounts  
 14 equal to the amount of such benefit”.

15 (3) PROVISIONS RELATING TO EARNINGS  
 16 TAKEN INTO ACCOUNT IN DETERMINING SUBSTAN-  
 17 TIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—  
 18 The second sentence of section 223(d)(4)(A) of the  
 19 Social Security Act (42 U.S.C. 423(d)(4)(A)) is  
 20 amended by striking “if section 102 of the Senior  
 21 Citizens’ Right to Work Act of 1996 had not been  
 22 enacted” and inserting the following: “if the amend-  
 23 ments to section 203 made by section 102 of the  
 24 Senior Citizens’ Right to Work Act of 1996 and by

1 the Senior Citizens' Freedom to Work Act of 1999  
 2 had not been enacted”.

3 (d) EFFECTIVE DATE.—The amendments and re-  
 4 peals made by this section shall apply with respect to tax-  
 5 able years ending after December 31, 1998.

## 6 **TITLE II—PROTECTING AND** 7 **PRESERVING THE SOCIAL SE-** 8 **CURITY TRUST FUNDS**

### 9 **SEC. 201. SHORT TITLE.**

10 This title may be cited as the “Protecting and Pre-  
 11 serving the Social Security Trust Funds Act”.

### 12 **SEC. 202. FINDINGS.**

13 Congress finds that—

14 (1) the \$69,246,000,000 unified budget surplus  
 15 achieved in fiscal year 1998 was entirely due to sur-  
 16 pluses generated by the social security trust funds  
 17 and the cumulative unified budget surpluses pro-  
 18 jected for subsequent fiscal years are primarily due  
 19 to surpluses generated by the social security trust  
 20 funds;

21 (2) Congress and the President should not use  
 22 the social security trust funds surpluses to balance  
 23 the budget or fund existing or new non-social secu-  
 24 rity programs;

1           (3) all surpluses generated by the social secu-  
 2           rity trust funds must go towards saving and  
 3           strengthening the social security system; and

4           (4) at least 62 percent of the on-budget (non-  
 5           social security) surplus should be reserved and ap-  
 6           plied to the social security trust funds.

7   **SEC. 203. PROTECTION OF THE SOCIAL SECURITY TRUST**  
 8           **FUNDS.**

9           (a) PROTECTION BY CONGRESS.—

10           (1) REAFFIRMATION OF SUPPORT.—Congress  
 11           reaffirms its support for the provisions of section  
 12           13301 of the Budget Enforcement Act of 1990 that  
 13           provides that the receipts and disbursements of the  
 14           social security trust funds shall not be counted for  
 15           the purposes of the budget submitted by the Presi-  
 16           dent, the congressional budget, or the Balanced  
 17           Budget and Emergency Deficit Control Act of 1985.

18           (2) PROTECTION OF SOCIAL SECURITY BENE-  
 19           FITS.—Balances in the Federal Old-Age and Sur-  
 20           vivors Insurance Trust Fund and the Federal Dis-  
 21           ability Insurance Trust Fund shall be used solely for  
 22           paying social security benefit payments as promised  
 23           to be paid by law.

1 (b) POINTS OF ORDER.—Section 301 of the Congres-  
 2 sional Budget Act of 1974 is amended by adding at the  
 3 end the following:

4 “(j) SOCIAL SECURITY POINT OF ORDER.—It shall  
 5 not be in order in the Senate to consider a concurrent  
 6 resolution on the budget, an amendment thereto, or a con-  
 7 ference report thereon that violates section 13301 of the  
 8 Budget Enforcement Act of 1990.

9 “(k) SOCIAL SECURITY SURPLUS PROTECTION  
 10 POINT OF ORDER.—It shall not be in order in the Senate  
 11 to consider a concurrent resolution on the budget, an  
 12 amendment thereto, or a conference report thereon that  
 13 would cause or increase an on-budget deficit for any fiscal  
 14 year.

15 “(l) SUBSEQUENT LEGISLATION.—

16 “(1) IN GENERAL.—It shall not be in order in  
 17 the Senate to consider any bill, joint resolution,  
 18 amendment, motion, or conference report if—

19 “(A) the enactment of the bill or resolution  
 20 as reported;

21 “(B) the adoption and enactment of that  
 22 amendment; or

23 “(C) the enactment of the bill or resolution  
 24 in the form recommended in the conference re-  
 25 port;



1 would cause or increase an on-budget deficit for any  
 2 fiscal year.

3 “(2) EXCEPTION TO POINT OF ORDER.—This  
 4 subsection shall not apply to social security reform  
 5 legislation that would protect the social security sys-  
 6 tem from insolvency and preserve benefits as prom-  
 7 ised to beneficiaries.”.

8 (c) SUPERMAJORITY WAIVER AND APPEAL.—Sub-  
 9 sections (c)(1) and (d)(2) of section 904 of the Congres-  
 10 sional Budget Act of 1974 are amended by striking  
 11 “305(b)(2),” and inserting “301(j), 301(k), 301(l),  
 12 305(b)(2)”.

13 **SEC. 204. SEPARATE BUDGET FOR SOCIAL SECURITY.**

14 (a) EXCLUSION.—The outlays and receipts of the so-  
 15 cial security program under title II of the Social Security  
 16 Act, including the Federal Old-Age and Survivors Insur-  
 17 ance Trust Fund and the Federal Disability Insurance  
 18 Trust Fund and the related provisions of the Internal Rev-  
 19 enue Code of 1986, shall be excluded from—

20 (1) any official documents by Federal agencies  
 21 regarding the surplus or deficit totals of the budget  
 22 of the Federal Government as submitted by the  
 23 President or of the surplus or deficit totals of the  
 24 congressional budget; and

1           (2) any description or reference in any official  
2           publication or material issued by any other agency  
3           or instrumentality of the Federal Government.

4           (b) SEPARATE BUDGET.—The outlays and receipts of  
5           the social security program under title II of the Social Se-  
6           curity Act, including the Federal Old-Age and Survivors  
7           Insurance Trust Fund and the Federal Disability Insur-  
8           ance Trust Fund and the related provisions of the Internal  
9           Revenue Code of 1986, shall be submitted as a separate  
10          budget.

11       **SEC. 205. PRESIDENT'S BUDGET.**

12          Section 1105(f) of title 31, United States Code, is  
13          amended by striking “in a manner consistent” and insert-  
14          ing “in compliance”.

15               **TITLE III—SAVING SOCIAL**  
16               **SECURITY FIRST**

17       **SEC. 301. DESIGNATION OF ON-BUDGET SURPLUS.**

18          (a) IN GENERAL.—Notwithstanding any other provi-  
19          sion of law, not less than the amount referred to in sub-  
20          section (b) for a fiscal year shall be reserved for and ap-  
21          plied to the social security trust funds for that fiscal year  
22          in addition to the social security trust fund surpluses.

23          (b) AMOUNT RESERVED.—The amount referred to in  
24          this subsection is—

25               (1) for fiscal year 2001, \$6,820,000,000;

- 1 (2) for fiscal year 2002, \$36,580,000,000;  
2 (3) for fiscal year 2003, \$31,620,000,000;  
3 (4) for fiscal year 2004, \$42,160,000,000;  
4 (5) for fiscal year 2005, \$48,980,000,000;  
5 (6) for fiscal year 2006, \$71,920,000,000;  
6 (7) for fiscal year 2007, \$83,080,000,000;  
7 (8) for fiscal year 2008, \$90,520,000,000; and  
8 (9) for fiscal year 2009, \$102,300,000,000.

9 **SEC. 302. SENSE OF THE SENATE ON DEDICATING ADDI-**  
10 **TIONAL SURPLUS AMOUNTS.**

11 It is the sense of the Senate if the budget surplus  
12 in future years is greater than the currently projected sur-  
13 plus, serious consideration should be given to directing  
14 more of the surplus to strengthening the social security  
15 trust funds.

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