

CLERGY ACT

DECEMBER 1, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
submitted the following

R E P O R T

[To accompany H.R. 6068]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 6068) to allow a period in which members of the clergy may revoke their exemption from Social Security coverage, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clergy Act”.

SEC. 2. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) **IN GENERAL.**—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed by the Commissioner of Internal Revenue), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant’s second taxable year beginning after December 31, 2025. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.)), as specified in the application, either with respect to the applicant’s first taxable year beginning after December 31, 2025, or with respect to the applicant’s second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file an application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant’s Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant’s income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraphs (4) and (5) of section 1402(c)) except for the exemption under section 1402(e)(1) of such Code.

(b) **EFFECTIVE DATE.**—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 2025, and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual’s application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 3. REPORT TO CONGRESS.

Not later than 90 days after the date of enactment of this Act, the Commissioner of Internal Revenue, in consultation with the Commissioner of Social Security, shall develop and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a plan to inform duly ordained, commissioned, or licensed ministers of a church, members of a religious order, and Christian Science practitioners of their eligibility to revoke any prior election of exemption from Social Security participation.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 6068, the “Clergy Act”, as ordered reported by the Committee on Ways and Means on November 2, 2023, allows for the permanent revocation of an exemption from payment of Self-Employment Contributions Act (SECA) taxes on income associated with ministerial services performed by certain church ministers and members of a religious order (other than a member of a religious order who has taken a vow of poverty as a member of such order), and Christian Science practitioners (hereinafter collectively referred to as “clergy” for the purposes of this report).

B. BACKGROUND AND NEED FOR LEGISLATION

Under current law, services performed by members of the clergy are considered “self-employment” for purposes of Social Security coverage.¹ By statute, members of the clergy may apply for a permanent exemption from paying SECA taxes on income associated with their performance of ministerial services.² Every year, roughly 2,000 members of the clergy apply and receive an exemption.³ As a result, these members of the clergy do not contribute to, or receive benefits from, the Social Security retirement or disability programs or Medicare based on their own ministerial work histories.

By law, this exemption must generally be sought early in a clergy member’s ministerial career and, after being granted, is irrevocable. As a result, some members of the clergy who received an exemption at the start of their career struggle to prepare for retirement in later years. The *Social Security Amendments of 1977*,⁴ the *Tax Reform Act of 1986*,⁵ and the *Ticket to Work and Work Incentives Improvement Act of 1999*⁶ provided members of the clergy with temporary, time-limited opportunities to revoke their exemption from Social Security coverage. However, it has been nearly 24 years since members of the clergy were provided with this option.

C. LEGISLATIVE HISTORY

Background

H.R. 6068 was introduced on October 26, 2023, and was referred to the Committee on Ways and Means.

Committee Hearings

On September 14, 2023, the Ways and Means Committee held a “Member Day” hearing. The hearing received a submission for the record from the bill sponsors detailing how some members of the clergy struggle to plan for retirement because they lack Social Security coverage and they cannot opt into the program.

Committee Action

The Committee on Ways and Means marked up H.R. 6068, the “Clergy Act”, on November 2, 2023, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop and consider H.R. 6068:

The Committee on Ways and Means “Member Day” hearing which took place on September 14, 2023.

¹ Social Security Act § 211(c); Internal Revenue Code § 1402(c).

² Internal Revenue Code § 1402(e).

³ Letter from Stephen C. Goss, Chief Actuary, Soc. Sec. Admin. to Rep. Kevin McCarthy (Mar. 31, 2020), https://www.ssa.gov/OACT/solvency/KMcCarthy_20200331.pdf.

⁴ Pub. L. 95–216, § 316 (1977).

⁵ Pub. L. 99–514, § 1704(b) (1986).

⁶ Pub. L. 106–170, § 403 (1999).

II. EXPLANATION OF THE BILL

PRESENT LAW

Members of the clergy are automatically covered by Social Security as self-employed workers. Members of the clergy may apply for an exemption from paying Social Security SECA taxes on income associated with their performance of ministerial services. To do so, they must certify that they are conscientiously, or because of religious principles, opposed to the acceptance of public insurance that makes payments in the event of death, disability, old age, or retirement, or that makes payments toward the cost of, or provides services for, medical care. The application must be filed within a period ending with the due date of the tax return for the second taxable year in which he or she earns wages for their ministerial services. Current law does not allow members of the clergy to revoke their exemption from Social Security coverage.

REASONS FOR CHANGE

Members of the clergy who receive an exemption from SECA taxation with respect to self-employment income in connection with ministerial services do not contribute to or receive Social Security benefits or Medicare coverage based on those services. Absent Congressional action, these exemptions are irreversible.

Congress has periodically provided members of the clergy with temporary windows to revoke these exemptions. Most recently, the *Ticket to Work and Work Incentives Improvement Act of 1999* established an approximately two-year window during which members of the clergy could revoke their exemptions.⁷

EXPLANATION OF PROVISIONS

Section 1 designates the short title of the bill as the “Clergy Act”.

Section 2 allows members of the clergy who previously exempted themselves from Social Security and Medicare coverage to apply for a permanent revocation of this exemption by no later than the due date (including any extension thereof) of the individual’s federal income tax return for the applicant’s second taxable year beginning after December 31, 2025.

Section 3 requires the Commissioner of Internal Revenue, in consultation with the Commissioner of Social Security, to develop and submit a plan to Congress to inform members of the clergy of their eligibility to apply for the revocation permitted by Section 2.

EFFECTIVE DATE

The bill would become effective upon enactment.

III. VOTE OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 6068, the “Clergy Act” on November 2, 2023.

⁷ Pub. L. No. 106–170, § 403 (1999).

H.R. 6068 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 41 yeas to 0 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	.....	.....	Mr. Neal	X	.....	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett	X	.....	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson	X	.....	.....
Mr. Kelly	X	.....	.....	Mr. Larson	X	.....	.....
Mr. Schweikert	X	.....	.....	Mr. Blumenauer	X	.....	.....
Mr. LaHood	X	.....	.....	Mr. Pascrell .....	.....	.....	.....
Dr. Wenstrup	X	.....	.....	Mr. Davis	X	.....	.....
Mr. Arrington	X	.....	.....	Ms. Sánchez	X	.....	.....
Dr. Ferguson	X	.....	.....	Mr. Higgins	X	.....	.....
Mr. Estes	X	.....	.....	Ms. Sewell	X	.....	.....
Mr. Smucker	X	.....	.....	Ms. DelBene	X	.....	.....
Mr. Hern	X	.....	.....	Ms. Chu	X	.....	.....
Ms. Miller	X	.....	.....	Ms. Moore	X	.....	.....
Dr. Murphy	X	.....	.....	Mr. Kildee	X	.....	.....
Mr. Kustoff	X	.....	.....	Mr. Beyer	X	.....	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Evans	X	.....	.....
Mr. Steube	X	.....	.....	Mr. Schneider .....	.....	.....	.....
Ms. Tenney	X	.....	.....	Mr. Panetta	X	.....	.....
Mrs. Fischbach	X	.....	.....				
Mr. Moore	X	.....	.....				
Mrs. Steel	X	.....	.....				
Ms. Van Duyne	X	.....	.....				
Mr. Feenstra	X	.....	.....				
Ms. Malliotakis	X	.....	.....				
Mr. Carey	X	.....	.....				

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 6068, as reported. The estimate prepared by the Congressional Budget Office (CBO) is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

H.R. 6068, Clergy Act As ordered reported by the House Committee on Ways on Means on November 2, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	0	*	2
Revenues	0	26	77
Increase or Decrease (-) in the Deficit	0	-26	-75
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
		Contains intergovernmental mandate?	Excluded from UMRA
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$5 billion	Contains private-sector mandate?	Excluded from UMRA
* = between zero and \$500,000.			

H.R. 6068 would allow clergy to make a one-time decision during calendar years 2026 or 2027 to reverse a previous decision to exempt their ministerial earnings from self-employment taxes. Under current law, certain members of the clergy may make a one-time, irrevocable decision to exempt their ministerial earnings from self-employment taxes. If they elect to do so, they do not receive Social Security and Medicare benefits based on that income.

A similar provision was included in the Ticket to Work and Work Incentives Improvement Act of 1999. Based on the number of members of the clergy who elected coverage under that law, CBO and the staff of the Joint Committee on Taxation estimate that roughly 4,000 clergy members would reverse their decision, resulting in an increase of \$77 million in revenue over the 2024–2033 period. Of that, \$62 million is from additional Social Security payroll tax revenues, which are classified as off-budget, and \$15 million is from additional Medicare payroll taxes, which are on-budget.

Most of the additional benefits that would result from those decisions would be paid after 2033, but CBO estimates that Social Security and Medicare outlays would each increase by \$1 million over the 2024–2033 period. Social Security outlays are off-budget, and Medicare outlays are on-budget. CBO estimates that implementing the legislation would increase administrative costs for the Internal Revenue Service by an insignificant amount. That spending would be subject to the availability of appropriated funds.

The costs of the legislation, detailed in Table 1, fall within budget functions 570 (Medicare) and 650 (Social Security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 6068

[illegible]

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 6068—Continued

	By fiscal year, millions of dollars—											
	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024–2028	2024–2033
Increases in Revenues												
Estimated Revenues ...	0	0	4	11	11	11	11	10	10	9	26	77
<i>On-budget</i>	0	0	1	2	2	2	2	2	2	2	5	15
<i>Off-budget</i>	0	0	3	9	9	9	9	8	8	7	21	62
Net Decrease (–) in the Deficit From Changes in Direct Spending and Revenues												
Effect on the Deficit ...	0	0	–4	–11	–11	–11	–11	–10	–10	–7	–26	–75
<i>On-budget</i>	0	0	–1	–2	–2	–2	–2	–2	–2	–1	–5	–14
<i>Off-budget</i>	0	0	–3	–9	–9	–9	–9	–8	–8	–6	–21	–61

Implementing the bill would increase costs for the Internal Revenue Service by less than \$500,000 over the 2024–2028 period. That spending would be subject to the availability of appropriated funds. * = between zero and \$500,000.

CBO has not reviewed H.R. 6068 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act legislative provisions related to the Old-Age, Survivors, and Disability Insurance (OASDI) program under title II of the Social Security Act (including taxes imposed by sections 3101(a) and 311(a) of the Internal Revenue Code of 1986). CBO has determined that H.R. 6068 falls within that exclusion because it concerns OASDI payments made to members of the clergy.

The CBO staff contacts for this estimate are Noah Meyerson (for Social Security) and Sarah Sajewski and Noah Zwiefel (for Medicare). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. TAX COMPLEXITY ANALYSIS

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, the staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code of 1986 and that have “widespread applicability” to individuals or small businesses, within the meaning of the rule.

F. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).