SOCIAL SECURITY
BALTIMORE, MD 21235-0001

DEPARTMENT OF THE TREASURY
WASHINGTON, DC 20220

December 4, 2006

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

Dear Mr. Speaker:

Enclosed is a draft bill that would provide the Department of the Treasury (Treasury) with authority to complete the reimbursement of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (the Social Security Trust Funds) for certain bookkeeping errors by the Social Security Administration (SSA).

Earlier this year, SSA informed Treasury of bookkeeping errors that SSA had made under the voluntary program of withholding taxes on Social Security benefit payments. While the amounts of taxes that SSA withheld from payments made to Social Security beneficiaries were accurate, SSA made substantial overpayments to the Internal Revenue Service (IRS) for tax years 1999-2005. Using existing authority in the Internal Revenue Code (Code), the IRS refunded $5,650,654,761.11 in overpayments that SSA made for the tax years that are not barred by the three-year statute of limitations on refund claims. The IRS also paid $565,048,663.53 in interest on the refunded overpayments at the interest rate prescribed in the Code using existing authority in the Code. That leaves SSA's overpayments made for years 1999-2001, plus interest, that the IRS cannot reimburse because of the three-year statute of limitation on refund claims.

The enclosed draft bill would give Treasury authority to pay into the Social Security Trust Funds the remaining amount needed to reimburse fully the Trust Funds. The bill does not refer to a precise dollar amount, but rather describes the amount in formulaic terms, namely, an amount, to be determined by Treasury in consultation with SSA, equal to the difference between (a) the total amount that the Social Security Trust Funds have lost (including interest that would have been earned, calculated at the statutory Social Security investment rate), and (b) the total amount that the IRS refunded to SSA under existing Code authority (including interest that the IRS paid, calculated at the statutory IRS interest rate). The bill has no effect on Social Security beneficiaries who elect to have taxes withheld from their benefit payments.

We have been informed by the Office of Management and Budget that the one-time appropriation is an intra-governmental transfer of funds (i.e., the appropriation would be made from the General Fund of the Treasury to the Social Security Trust Funds) and, therefore, it would have no net effect on direct spending or receipts. The appropriation from the General Fund of the Treasury would be offset by the receipt of these amounts by the Social Security Trust Funds, resulting in a net unified budget effect of zero.

It would be appreciated if you would lay the draft bill before the House of Representatives. An identical draft bill has been transmitted to the President of the Senate.

The Office of Management and Budget has no objection to the submission of this legislation from the standpoint of the Administration's Program.

Sincerely,

Jo Anne B. Barnhart
Commissioner
Social Security Administration

Donald V. Hammond
Fiscal Assistant Secretary
Department of the Treasury

Enclosures

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BALTIMORE, MD 21235-0001

DEPARTMENT OF THE TREASURY
WASHINGTON, DC 20220

December 4, 2006

The Honorable Richard B. Cheney
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill that would provide the Department of the Treasury (Treasury) with authority to complete the reimbursement of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (the Social Security Trust Funds) for certain bookkeeping errors by the Social Security Administration (SSA).

Earlier this year, SSA informed Treasury of bookkeeping errors that SSA had made under the voluntary program of withholding taxes on Social Security benefit payments. While the amounts of taxes that SSA withheld from payments made to Social Security beneficiaries were accurate, SSA made substantial overpayments to the Internal Revenue Service (IRS) for tax years 1999-2005. Using existing authority in the Internal Revenue Code (Code), the IRS refunded $5,650,654,761.11 in overpayments that SSA made for the tax years that are not barred by the three-year statute of limitations on refund claims. The IRS also paid $565,048,663.53 in interest on the refunded overpayments at the interest rate prescribed in the Code using existing authority in the Code. That leaves SSA's overpayments made for years 1999-2001, plus interest, that the IRS cannot reimburse because of the three-year statute of limitation on refund claims.

The enclosed draft bill would give Treasury authority to pay into the Social Security Trust Funds the remaining amount needed to reimburse fully the Trust Funds. The bill does not refer to a precise dollar amount, but rather describes the amount in formulaic terms, namely, an amount, to be determined by Treasury in consultation with SSA, equal to the difference between (a) the total amount that the Social Security Trust Funds have lost (including interest that would have been earned, calculated at the statutory Social Security investment rate), and (b) the total amount that the IRS refunded to SSA under existing Code authority (including interest that the IRS paid, calculated at the statutory IRS interest rate). The bill has no effect on Social Security beneficiaries who elect to have taxes withheld from their benefit payments.

We have been informed by the Office of Management and Budget that the one-time appropriation is an intra-governmental transfer of funds (i.e., the appropriation would be made from the General Fund of the Treasury to the Social Security Trust Funds) and, therefore, it would have no net effect on direct spending or receipts. The appropriation from the General Fund of the Treasury would be offset by the receipt of these amounts by the Social Security Trust Funds, resulting in a net unified budget effect of zero.

The prompt and favorable consideration of this proposal would be appreciated. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has no objection to the submission of this legislation from the standpoint of the Administration's Program.

Sincerely,

Jo Anne B. Barnhart
Commissioner
Social Security Administration

Donald V. Hammond
Fiscal Assistant Secretary
Department of the Treasury

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SECTION-BY-SECTION ANALYSIS

Section 1 provides that the short title of the Act is the "Social Security Trust Funds Restoration Act of 2006".

Section 2 sets out the definitions of particular terms used in this Act. The term "clerical error" is defined in this Act to mean the bookkeeping errors at the Social Security Administration that resulted in the overpayment of amounts from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (collectively, the Social Security Trust Funds) to the Internal Revenue Service from 1999 through 2005 as transfers of anticipated taxes on social security benefit payments under the voluntary withholding program authorized by section 3402(p) of the Internal Revenue Code.

Section 3 provides an appropriation of the amount of funds needed to restore fully the Social Security Trust Funds from the consequences of the clerical error. The appropriation language does not refer a precise dollar amount, but rather describes the amount in formulaic terms, namely, an amount, to be determined by the Secretary of the Treasury, in consultation with the Commissioner of Social Security, equal to the difference between (a) the total amount that the Social Security Trust Funds have lost (including interest that would have been earned, calculated at the statutory Social Security investment rate), and (b) the total amount that the Internal Revenue Service refunded to the Social Security Administration under existing Internal Revenue Code authority (including interest that the Internal Revenue Service paid, calculated at the statutory Internal Revenue Service interest rate). The total amount needed to restore fully the Trust Funds is estimated to be approximately $1,282,940,947.15 as of September 30, 2006, but the amount needed to achieve full restoration increases as time passes.

Section 3 also directs the Secretary of the Treasury to invest the amount appropriated to each Trust Fund in accordance with currently applicable investment policy for that Trust Fund.

Section 4 requires the Secretary of the Treasury to accomplish the required restoration within 120 days of enactment of the Act. The Commissioner of Social Security is to cooperate with the Secretary.

Section 5 requires the Secretary of the Treasury to notify Congress in writing of the actions taken not later than 30 days after taking the last action.

A BILL

To provide authority to restore the Social Security Trust Funds from the effects of a clerical error, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Trust Funds Restoration Act of 2006".

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) CLERICAL ERROR.--The term "clerical error" means the bookkeeping errors at the Social Security Administration that resulted in the overpayment of amounts transferred from each trust fund to the Internal Revenue Service from 1999 through 2005 as transfers of anticipated taxes on social security benefit payments under the voluntary withholding program authorized by section 3402(p) of the Code.

(2) CODE.--The term "Code" means the Internal Revenue Code of 1986.

(3) SECRETARY.--The term "Secretary" means the Secretary of the Treasury.

(4) TRUST FUND.--The term "trust fund" means the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund.

SEC. 3. RESTORATION.

(a) APPROPRIATION.--There is appropriated to each trust fund, out of any money in the Treasury not otherwise appropriated, an amount determined by the Secretary, in consultation with the Commissioner of Social Security, to be equal, to the extent practicable in the judgment of the Secretary, to the difference between--

(1) the sum of--

(A) the amounts that the Secretary determines, in consultation with the Commissioner of Social Security, were overpaid from each trust fund to the Internal Revenue Service by reason of the clerical error; and

(B) the amount that the Secretary determines, in consultation with the

Commissioner of Social Security, to be equal, to the extent practicable in the judgment of the Secretary, to the interest income that would have been payable to each trust fund pursuant to section 201(d) of the Social Security Act on obligations issued under chapter 31 of title 31, United States Code, that was not paid by reason of the clerical error; and

(2) the sum of--

(A) the amounts that are refunded to each trust fund as overpayments by reason of the clerical error to the extent not limited by periods of limitation under applicable provisions of the Code; and

(B) the interest that is paid to each trust fund on the overpayments resulting from the clerical error to the extent allowed under applicable provisions of the Code.

(b) INVESTMENT.--The Secretary shall invest the amounts appropriated to each trust fund under subsection (a) in accordance with the currently applicable investment policy for that fund.

SEC. 4. TIMING.

(a) THE SECRETARY.--The Secretary shall take such actions as are necessary to accomplish the restoration described in section 3 not later than 120 days after the date of enactment of this Act.

(b) THE COMMISSIONER.--The Commissioner of Social Security shall cooperate with the Secretary so that the Secretary may meet the requirement of subsection (a).

SEC. 5. CONGRESSIONAL NOTIFICATION.

Not later than 30 days after the taking of the last action under section 3, the Secretary shall notify Congress in writing of the actions taken.