

U.S. Congress
UNITED STATES



OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS
SECOND SESSION

VOLUME 116—PART 31

DECEMBER 11, 1970, TO DECEMBER 17, 1970

(PAGES 41105 TO 42328)

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENTS NOS. 1141 THROUGH 1143

Mr. MONDALE submitted three amendments, intended to be proposed by him, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1144

SOCIAL SECURITY COMPUTATION OF AVERAGE MONTHLY WAGE

Mr. MONDALE. Mr. President, under the present social security laws, many workers lose significant retirement cash benefits because of changes in the conditions of their employment over which they have no control. Under present law, benefits are based on average earnings in all years, minus the 5 lowest years. On this basis, benefits are reduced in cases of declining earnings in later years, or in cases of reduced wages or unemployment in a changing industry. If a laborer is unable to continue heavy manual work and must take a lower paying job in the last years before he retires, he will receive a lower monthly social security benefit after retirement. Any losses in annual income due to mergers, plant closings, or recession are reflected in retirement benefits, if an employee has 5 lower earning years at the beginning of his career.

My amendment would protect retirement earnings by basing benefits on an individual's 10 highest earning years. This bases the computation on the positive side of the employment record, over which an individual has control. The estimated cost of this change would be 0.66 percent of taxable payroll.

To illustrate the workings of this provision: In Minnesota, where we have had rises and declines in the iron ore and lumber industries, a laborer at the median wage level would have \$168 monthly social security benefits at best. If he had suffered 5 years of reduced pay or a year of unemployment late in his career because of changes in his industry, he would get only \$161, or a 4-percent reduction. Under my amendment, his benefit would be based only on his 10 highest years of earnings, and he would pay no penalty for wage conditions beyond his control. He would earn \$179 per month, or 12 percent more than under present law.

In many States, rapid shifts in new technologies cause frequent layoffs in many industries. The high current rate of general unemployment is also causing losses in the computation of average monthly wages for most of the almost 5 million unemployed who are covered by social security.

If we consider that half of all persons over 65 have less than \$1,500 annual income, it is obvious that we ought to design methods of computing benefits

which would protect social security beneficiaries from erosions of their benefit base over which they have no control. This kind of policy is now applicable to Federal civil service employees; the Congress recently established their retirement benefits based on their highest 3 years of wages. For many years the military has based retirement income on the highest permanent pay grade attained. These positive definitions result in pension levels which are in sharp contrast with the average social security payment, which the Bureau of Labor Statistics says constitutes only one-third of a reasonable budget for retired persons.

When the Social Security Act became law in 1935, President Franklin Roosevelt said that he considered it the beginning of a "supreme achievement" in national legislation. While we consider amendments to that act 35 years later, I question the supremacy of our legislative achievements for our older citizens.

Older citizens are being cruelly squeezed between stationary pensions and the worst price rises in a decade. Shriveling pensions strip away the only hope most retirees hold for independence and dignity.

Thirty percent of all Americans over 65 live in poverty, as opposed to 12 percent of all other citizens. It is difficult for those of us who are relatively affluent to realize that these millions of retired citizens are thus condemned to lose their share of our affluence and the dignified retirement they have earned.

I urge consideration of the amendment which I submit as part of the effort to preserve a decent life for our older citizens.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1145—EARNINGS LIMITATION

Mr. MONDALE. Mr. President, I would like to commend the committee for its recommendations of a 10-percent cash benefit increase and establishment of a \$100 monthly minimum benefit. These changes will do much to alleviate deprivation among the elderly. I also support a number of the other improvements in cash benefits suggested by my other colleagues, some of which amendments I have cosponsored.

I would like to briefly discuss my amendment which I submit related to the earnings limitation on social security benefit entitlement.

Many retirees wish to remain active by working parttime. This often contributes to good physical and mental health, and obviously many retirees need income supplements. At the present time, however, social security policy dictates that a retiree may earn only \$1,680 annually without losing some of his social security benefits; the bill now before us sets the limit at \$2,000. Along with many of my colleagues, I believe that the limit ought to be raised to \$2,400, to encourage beneficial activity and to give retirees more opportunity to remain materially independent. The cost of this change, \$280 million dollars more per year than in the committee bill, is not excessive when we consider that in re-

cent years we have willingly spent such sums as \$1 billion dollars, or four times as much as this amendment would cost, for the B-70 bomber, which is now obsolete and never went into production.

I believe that our public policies have not been adequate to maintain certain basic benefits of American citizenship for older Americans, and many senior citizens have lost their independence and individual dignity. Every person has a right to maintain his autonomy, his individuality as a citizen, to the end of his life.

But that is becoming more and more difficult in the United States. In the last 30 years, the average life expectancy in the United States has risen from 63 years to 70. At the same time the mandatory retirement ages in many occupations have been lowered. This has brought enforced idleness and feelings of uselessness to millions of our citizens. In the past 15 years, the percentage of those between 65 and 70 who were employed dropped from 58 to 34 percent.

At the same time, as our society has become more mobile, our traditions of mutual support between children and aging parents have fallen away.

Idleness and isolation are often accompanied by severe income losses. Older citizens are being cruelly squeezed between stationary pensions and the worst price rises in a decade.

The incidence of poverty among persons over 65 is almost three times the rate among the population under 65. Most importantly, only 17 percent of social security recipients have any outside source of income.

This amendment addresses itself to the problem of enforced idleness and low levels of income. It would do much to encourage part-time employment among retired persons. This provision would also help prevent the complete loss of the valuable talent and experience which senior citizens add to the Nation's productivity.

I urge the Senate's approval for increasing the earnings limitation to \$2,400 per year.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 1146

SOCIAL SECURITY COVERAGE FOR FARMWORKERS

Mr. MONDALE. Mr. President, for all practical purposes, migrant and seasonal farmworkers are excluded from coverage under the Social Security Act, although it is one of the few major areas of conventional Federal employee benefit programs in which farmworkers may receive even the slightest theoretical benefit.

Since 1956 farm employment has been covered for social security purposes if the worker received cash wages amounting to at least \$150 from one employer during the year, or if a worker worked for one employer 20 days or more during the year. A significant provision of the present law treats the crew leader as an employee of the farmer unless there is a written contract between the two that provides otherwise.

The restrictions in the law effectively serve to deny coverage for the farm-

worker. First, the low rate of compensation and short periods of employment that characterize migrant and seasonal farmwork often prohibit him from meeting even the meager qualifying requirements set forth above. A further catch is that the 20-day requirement must be for cash remuneration computed on a time basis rather than on a piece rate basis. As many farmworkers are paid on a piece rate basis the 20-day provision has had limited practical effect.

The provision allowing treatment of the crew leader as an employer raises serious problems for the farmworker, the farmer, and the crew leader. The initial rationale for this provision was to give the employee working on several farms under a single crew leader a better chance to meet the annual requirement of \$150 or 20 days under one employer. Additionally, the crew leader language was initially inserted in 1956 to relieve the farmer of alleged bookkeeping inconvenience.

However, because of the nebulous and changing work relationships between farmers and crew leaders, the amendment has become a screen for tax evasion by endless shifting of responsibility between the farmer and a sometimes difficult to find crew leader. And, although some provisions of the Farm Labor Contractor Registration Act would hopefully have aided in keeping track of some crew leaders, permitting at least a chance for eliminating abuse, that act for all practical purposes is unenforced.

Two amendments to the Social Security Act would eliminate the discriminatory treatment of the farmworker.

First, by eliminating the restrictive wage and work period qualifications, a greater number of farmworkers would be covered.

Second, by eliminating a law which makes the crew leader an employer for social security purposes, there would be less chance for abuse.

The first amendment, in addition to covering more farmworkers under the Social Security Act, would also provide major relief to the farmer who is permitted to withhold a portion of a farmworker's pay although he may not know if the farmworker is, or will be, covered. Often this portion is not refunded when all qualifications for coverage are not met by the farmworker.

By passing this amendment, the farmer would be relieved from the guessing game as to which farmworkers are covered, and whether he might be liable for funds illegally appropriated through an unscrupulous crew leader.

By eliminating the presumption that the crew leader is the employer, the second amendment would relieve the farmworkers of the determination of who may have illegally appropriated his withholding, either the farmer or the crew leader. Many farmworkers are paid by the day and neither records of their earnings nor receipts for deductions are provided. Presently, although the law requires that a receipt of social security withholding must be given to any employee who earns \$600 or more, this is usually not applicable to the migrant who is a short term worker usually not earning \$600 for any one employer, and usually not

easily contacted following termination of employment because of his mobility. By placing full responsibility for social security coverage on the farmer, the farmworker will better know who to approach in terms of the extent and nature of his coverage.

The financial cost of making some minimal provision for our farmworking citizens when they become too old to follow farmwork or other gainful employment, has been unfairly thrust upon the general public. In other words, the limitations on coverage of these workers during their periods of gainful employment in farmwork, although amounting to a minor benefit or convenience to the employer, will in the long run constitute a substantial detriment to the taxpaying public as well as the farmer himself. Every dollar that these citizens are allowed to pay for their own social security entitlement will lessen the financial burden on the taxpaying public during the worker's nonproductive years.

Mr. President, I ask unanimous consent that my amendment which I submit to the Social Security Act (H.R. 17550) now on the floor, be printed in full in the CONGRESSIONAL RECORD at this point in my remarks, together with a section-by-section analysis.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and section-by-section analysis will be printed in the RECORD.

The amendment (No. 1146) is as follows:

AMENDMENT No. 1146

On page 123, line 24, insert the following:
COVERAGE OF AGRICULTURAL LABOR

SEC. 134. (a) Section 209(h) of the Social Security Act is amended to read as follows: "(h) Remuneration paid in any medium other than cash for agricultural labor;"

(b) Section 210(n) of such Act is repealed.

(c) (1). Section 213(a)(2) of such Act is amended by striking out "(except wages for agricultural labor paid after 1954)".

(2). Section 213 of such Act is further amended by repealing paragraph (2)(iv) thereof.

(d) (1). Section 3121(a)(8) of the Internal Revenue Code of 1954 (relating to definition of wages for purposes of the Federal Insurance Contributions Act) is amended to read as follows:

"(8) remuneration paid in any medium other than cash for agricultural labor;"

(2). Section 3121(o) of such Code (relating to definition of crew leader) is repealed.

(e) The amendments made herein shall be applicable only with respect to remuneration paid after 1970.

The analysis, presented by Mr. MONDALE, is as follows:

SECTION-BY-SECTION ANALYSIS OF AMENDMENTS TO COVER FARMWORKERS UNDER SOCIAL SECURITY LEGISLATION

Section 134. (a) Under the "Definition of Wages" provisions of the present Social Security Act, the farmworker must receive cash wages amounting to at least \$150 from one employer during the year, or alternatively, the farmworker must work for one employer twenty days or more during the year, before any wages that he earns are counted. The proposed amendment eliminates these special requirements for farmworkers, thus putting him on an equal footing with all other covered employees. The limitation that only cash wages can be counted, rather than

any other form of remuneration (such as housing or food), remains intact.

Section 134.(b) This repeals the definition of Crew Leader appearing in Section 210(n). The present Act establishes the crew leader, rather than the farmer, as the person primarily responsible for deducting social security. There presently is a legal presumption created that farmworkers paid by a crew leader are employees of the crew leader, rather than the farmer; also, under no circumstances is a crew leader considered as an employee of the farmer. These provisions are subject to substantial abuse that adversely affects farmers, farmworkers, and crew leaders.

Section 134.(c) The language in c(1) places farmworkers on the same footing as all other workers regarding the definition of quarter of coverage under Section 213 of the Social Security Act; and Section c(2) removes special limitations for agricultural workers requiring that certain minimum amounts must be made each quarter for coverage in the next quarter, and permitted some overlapping of quarters under limited circumstances.

Section 134.(d) To accomplish coverage of agricultural laborers under the Social Security Act, this section makes necessary changes in the related Internal Revenue Code of 1954, as amended, regarding the definition of wages for purposes of the Federal Insurance Contributions Act. Thus, section (d) (1) amends Section 3121(a)(8) of such Act to remove the discriminatory wages and days worked provisions of the present law; and section (d) (2) repeals language which defines the crew leader.

Section 134.(e) The amendments made by the preceding sections shall be applicable only with respect to remuneration paid after 1970.

AMENDMENT No. 1147

Mr. KENNEDY (for himself, Mr. YARBOROUGH, Mr. SAXBE, Mr. MATHIAS, Mr. HART, Mr. HUGHES, Mr. MCGOVERN, and Mr. MONDALE) submitted an amendment, intended to be proposed by them, jointly, to House bill 17550, supra, which was ordered to lie on the table and to be printed.

AMENDMENT No. 1148

Mr. PROUTY submitted an amendment, intended to be proposed by him, to House bill 17550, supra, which was ordered to lie on the table and to be printed.

AMENDMENT No. 1149

Mr. PROUTY. Mr. President, I submit an amendment to H.R. 17550 and ask that it be printed.

This amendment which I plan to offer to H.R. 17550 would eliminate the present tariff on petroleum products imported into the United States

The President pointed out in his latest inflation alert that oil prices play a part in our rising cost of living. The amendment seeks to relieve the consumer of a tariff on oil products that are imported into this country under a quota system which is already creating artificially high prices for petroleum products.

The PRESIDING OFFICER (Mr. GRAVEL). The amendment will be received and printed.

AMENDMENT No. 1150

Mr. PERCY. Mr. President, I would like to comment briefly on that portion of H.R. 17550, the Social Security Amendments of 1970, which deals with the old age, survivors, and disability insurance system.

The importance of this bill, which pro-