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STAFF DATA WITH RESPECT TO H.R. 17550 SOCIAL SECURITY AMENDMENTS OF 1970

PREPARED BY THE STAFF

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE
RUSSELL B. LONG, *Chairman*

PART 1

SOCIAL SECURITY CASH BENEFITS

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I. COMMITTEE STAFF RECOMMENDATIONS

A. Eliminate the Provision (sec. 106) of the House-Passed Bill which limits actuarial reduction when a woman is entitled to more than one benefit

Under present law, when a woman applies before age 65 for a retirement benefit based on her own earnings, her benefits are actuarially reduced. If she subsequently applies for a wife's benefit after reaching age 65, her wife's benefit is also actuarially reduced to reflect the fact that she began receiving benefits before age 65. The House bill would eliminate the actuarial reduction in such cases.

Costs

The House-passed provision would have a long-range cost of 0.10 percent of taxable payroll, about $500 million annually over the long run. In the first year, the cost is estimated at $10 million.

Staff Comment

The principle of actuarial reduction underlying present law is based on providing, on the average, the same amount of benefits over a beneficiary's lifetime regardless of whether she begins receiving them at age 65 or before age 65. The House bill would be inconsistent with this general principle for one group of beneficiaries—women who are entitled to social security benefits both as wives and as workers. Thus, women in this dual category would be able to receive, on the average, substantially higher lifetime social security benefits than either single working women with comparable wage records or women whose husbands have comparable wage records. For example, if two women have the same wage records, under the House bill the woman also entitled to benefits as a wife could elect to receive actuarially reduced wife's benefits for 3 years and still receive full benefits based on her own wage record at the age of 65. Under present law, her decision to receive actuarially reduced wife's benefits before age 65 means that all benefits subsequently received based on her own earnings—regardless of whether they begin before or after age 65—will also be actuarially reduced. The cost of providing the additional benefits provided by the House bill is substantial, averaging about one-half billion dollars over the long range.

The staff recommends that the committee consider deleting this provision from the bill.

If the committee wishes to retain the provisions in the House bill, there are a number of technical amendments to the provision which the Department has recommended be adopted so that provision would be applied in a consistent way in accord with apparent philosophy of the House-passed provision.

B. Retirement Test

The House-passed bill provides that reduction for excess earnings under the retirement test will be $1 in benefits for each $2 of earnings above $2,000 in a year.

The AFL–CIO has suggested that the area in which the $1 for $2 reduction should be limited, in the same general manner as it is under present law.

Under present law the $1 for $2 reduction is effective only for the first $1,200 above the annual exempt amount. Additional earnings result in a dollar-for-dollar reduction in benefits.

The staff believes that the provisions of present law should continue to apply.

Costs

Adoption of the staff suggestion would result in a savings of 0.03 percent of taxable payroll, or an average of approximately $150 million a year over the next 75 years.

II. HEW AND COMMITTEE STAFF RECOMMENDATIONS

A. Limit Widows' Benefits to the Full Old-Age Benefit Paid to a Husband Rather Than to the Full Primary Insurance Amount

Under the House-passed bill the benefit for widows or widowers who become entitled to benefits at age 65 would be increased from 82½ percent of the husband's primary insurance amount to 100 percent of that amount. For widows or widowers who become entitled to benefits between age 62 and 65, the 100 percent amount would be reduced in a way similar to that in which a worker's benefit is reduced when he becomes entitled to benefits before age 65.

This will result in cases in which a widow will get a higher monthly payment than the amount actually paid to her husband while he was alive. This situation would occur when the husband became entitled to benefits before age 65. In order to prevent the widow from getting more than the benefit paid to her husband, it has been suggested that the widow's benefit be 100 percent of the amount actually paid to her husband rather than 100 percent of the amount her husband would have been paid if he became entitled to benefits at or after age 65.

Savings

This provision is expected to reduce the cost to the House-passed bill by .04 percent of payroll on a long-range cost basis, an average of about $200 million annually.

B. Increase in Disability Insurance Trust Fund Moneys Used To Pay for Rehabilitation Services

Under present law an amount equal to 1 percent of disability insurance payments in each year may be used to meet the cost of rehabilitation services for disability insurance beneficiaries. The staff has been advised by the Department that the reduction in social security benefits which occurs when disability insurance beneficiaries are rehabilitated so that they can resume working more than pays for the cost of the rehabilitation services.

The Deputy Chief Actuary of the Social Security Administration has estimated that up to June 1969 the disability insurance trust fund has saved at least $1.60 for each $1 spent to rehabilitate social security disability insurance beneficiaries.

Vocational rehabilitation people have advised us that additional amounts of trust fund money could be profitably used to rehabilitate additional disability insurance beneficiaries. It is suggested that the limit on trust fund expenditures be increased from 1 percent of benefits to 1.25 percent of benefits for calendar year 1972 and to 1.5 percent for calendar year 1972 and thereafter.

The staff also suggests that the Social Security Administration be required (by statute or report language) to make an in-depth examination of the reported rehabilitations under this provision. Specifically, the committee should have more information as to the status of these individuals at various points of time after rehabilitation and the rate of return of these people to the benefit rolls.

Costs

The Department anticipates that this proposal would have some relatively small savings to the disability trust fund over the long run.

C. Workmen's Compensation Offset

Under present law, social security disability insurance benefits must be reduced when workmen's compensation is also payable and the combined payments are more than 80 percent of average earnings before the onset of the disability.

Under the House passed bill, social security disability insurance benefits would not be reduced until the combined payments under both the workmen's compensation program and the social security program exceeded 100 percent of average earnings before the start of the disability.

In testimony before the committee, the Commissioner of Social Security said:

> This 80-percent limitation was worked out in the Senate Finance Committee several years ago, as you will remember, after a great deal of discussion, and it involves the interrelationship of two programs as well as the question of incentives. We would prefer that the committee not go along with the House provision and instead ask the current Advisory Council on Social Security to consider this whole matter and make a recommendation.

The staff concurs with the Commissioner's recommendation and suggests that the provision of the House bill (sec. 105) be deleted from the bill.

D. Improve Coverage of U.S. Citizens Who Retain Residence in the United States and Are Self-Employed Outside the United States

Under present law, self-employment performed by a U.S. citizen outside the United States is covered under social security. However, in computing covered earnings from self-employment, a U.S. citizen who retains his residence in the United States but who is present in a foreign country or countries for 510 days (approximately 17 months) out of 18 consecutive months, must exclude the first $20,000 of earned income for income tax and social security purposes.

Some self-employed U.S. citizens—e.g., free lance newspapermen or news commentators—work outside the United States for long periods at a time before returning to the United States, although they retain their residence in the United States. Such citizens usually had social security coverage before they went abroad. The interruption or reduction of their coverage, because they must exclude their earned income up to $20,000 a year, may have an adverse effect on the social security protection of the worker and his family.

Proposal

The staff believes that social security coverage might be provided to U.S. citizens *who retain their residence in the United States* while they are self-employed outside the United States if they were required to compute their earnings from self-employment for social security purposes in the same way as those who are self-employed in the United States.

The staff believes that the determination of whether or not an individual has retained residence in the United States can be resolved through existing provisions of the Internal Revenue Code. The proposed change would have no effect on income tax liability.

Costs

None.

E. Permit Nebraska To Modify Its Social Security Coverage Agreement So As To Exclude Certain Categories of Employment That It Previously Could Have Excluded

Under present law, each State determines which of its employees it wishes to have covered under social security. In making the original coverage decision the State may exclude from social security coverage services performed in part-time positions and services performed by students for the school, college, or university in which they are enrolled and regularly attending classes. If the State does not exercise these options at the time the original coverage decision is made it may not subsequently exclude these categories from coverage. A State may terminate its coverage agreement, under certain conditions, only with respect to all covered State employees or all employees of a covered political subdivision.

The Governor of Nebraska has requested legislation to permit the State to discontinue coverage of students employed by the school in which they are enrolled and to exclude coverage of services for which the remuneration is less than $50 in a calendar quarter. Nebraska did not exercise its option to exclude services of students and part-time employees at the time it could have done so. (The law does not afford an option for States to exclude remuneration of less than $50 a quarter.)

Costs

Negligible cost to the social security programs.

Staff Comment

The staff believes that the problem might be solved if the State is given a further opportunity to exercise the option that it could have exercised at the time it first provided coverage. However, it does not seem desirable to create a new exclusion from coverage on the basis that

the remuneration is less than $50 a quarter—the amount needed for a quarter of coverage. Providing such an exclusion, except in unusual circumstances, could lead to widespread requests for similar treatment by private employers and, if generally adopted, might be costly to the social security program. The staff therefore proposes that Nebraska be permitted to modify its coverage agreement by exercising the option they failed to take earlier to exclude from coverage services in the employ of a school they are attending and services of employees in part-time positions.

F. Provide Social Security Coverage for Temporary Employees of the Government of Guam

No employees of the government of Guam are covered under social security. (Employees of private employers in Guam and American Samoa are covered after 1960 on the same basis as workers in the United States.)

Employees of the government of Guam who are classified as temporary employees (about 1,500) are mandatorily excluded from coverage under their retirement system, and thus have no protection under either system.

Under present law social security coverage can be provided for such employees only if it is also provided for employees covered under the government of Guam retirement system. The government of Guam has requested that coverage be extended to employees who are excluded from their retirement system. A similar provision has been enacted for temporary employees of the District of Columbia.

Proposal

Provide social security coverage on a compulsory basis for temporary employees of the government of Guam who are mandatorily excluded from coverage under the Government retirement system.

Costs

None.

III. HEW RECOMMENDATIONS WITH WHICH THE STAFF CONCURS

A. Simplify the Method of Establishing the Amount of Noncontributory Wage Credits for Military Service

Present Law

For calendar quarters after 1967 a serviceman receives quarterly noncontributory wage credits of $100 when his basic pay in a calendar quarter is $100 or less, $200 when his basic pay is over $100 but no more than $200, and $300 when his basic pay is more than $200. (H.R. 17550 would extend these provisions to the period January 1957 through December 1967.)

Problem

Under present law, in the great majority of cases $300 a quarter is recorded but complex and costly procedures have been established to take account of the fact that some servicemen for some quarters may receive credit for less than $300.

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Proposal

Provide that the noncontributory wage credits would be $300 for each calendar quarter of military service in which the serviceman is paid basic pay.

The technical amendment would be a liberalization in that some servicemen who, under present law, might get a credit of only $100 or $200 a quarter, would get a $300 credit for such quarter. It would have very little substantive effect on the protection provided servicemen, but might result in some small administrative savings.

Costs

The proposal would have no significant long-range costs.

B. Permit a Childhood Disability Beneficiary to Become Reentitled to Benefits if He Becomes Disabled Again Within 7 Years After Termination of Benefits

Present Law

Childhood disability benefits are provided for an adult son or daughter totally disabled since before age 18 [1] and still disabled when the insured worker-parent dies or becomes entitled to social security disability or retirement benefits. If the benefits payable to the son or daughter are terminated (because of a period of substantial gainful employment or because of medical recovery) they can never be resumed.

Problem

A childhood disability beneficiary who has his benefits terminated because of a period of substantial gainful employment is left with no benefit protection if he must stop working before earning sufficient social security credits to be insured for benefits as a disabled worker. Some childhood disability beneficiaries (particularly mentally retarded) manage to be employed at the level requiring termination of benefits for 2 years or so and then become unable to continue working; they have no protection either as worker or dependent. This tends to discourage attempts by childhood disability beneficiaries to become self-supporting.

Proposal

Provide that childhood disability beneficiaries whose benefits were terminated could again become entitled to childhood disability benefits if they again become disabled within 7 years after termination. The 7-year period would provide a reasonable opportunity for the childhood disability beneficiary to acquire disability protection through his own work under social security. Such provision for reentitlement of childhood disability beneficiaries who again become disabled would be consistent with provisions enacted in 1967 which allow reentitlement for disabled widows and widowers.

Costs

The proposal would have no significant long-range costs.

[1] Under H.R. 17550 "before age 18" would be changed to "before age 22."

C. Provide That a Child Entitled to Social Security Benefits on the Record of More Than One Worker May Get Benefits on the Record Resulting in the Highest Benefit

Present Law

A child entitled to social security child's insurance benefits based on the earnings records of more than one worker is paid benefits on only one earnings record—the record of the worker who is entitled to the highest primary insurance amount.

Problem

In cases where a child is entitled to benefits on the earnings record of more than one worker, the amount of his benefit based on the earnings record of the worker who has the highest primary insurance amount is sometimes smaller than the benefit based on the earnings record of another worker on whose record he is also entitled. He is, however, paid the smaller amount.

This situation can arise because children who are entitled on the earnings record of a retired or disabled worker get a benefit equal to 50 percent of the worker's primary insurance amount, while children entitled on the earnings record of a deceased worker get a benefit equal to 75 percent of the deceased worker's primary insurance amount.

When the present provision was enacted, a child's benefit was always 50 percent of the worker's primary insurance amount, whether the worker was living or dead, so that the highest possible benefit was always the benefit based on the highest primary insurance amount. Subsequent changes increased the surviving child's benefit to 75 percent of the primary insurance amount.

Proposal

Provide that a child who is entitled to social security child's insurance benefits on the earnings record of more than one worker will get benefits based on the earnings record that would result in the highest benefit if the payment of such benefits would not reduce the benefit of any other individual who is entitled to benefits on any of the earnings records on which the child is entitled.

Costs

The proposal would have no significant costs.

D. Correct a Deliberalization Resulting From the 1967 Amendments Relating to a Benefit Recomputation Based on Combined Railroad and Social Security Earnings

Present Law

The primary insurance amount of an individual generally is not recomputed unless he is credited with earnings after 1965. As a result, a recomputation is not specifically authorized for the survivors of a person who was entitled to benefits under both the railroad retirement and social security programs, and who, without such a recomputation, would get no credit at all toward survivor's benefits for his railroad retirement service unless he had social security earnings after 1965.

Problem

The simplified benefit-computation method that was included in the 1967 amendments provided that recomputations would be made only for a beneficiary who had earnings after 1965. (The purpose of this restriction was to avoid having to recompute under the simplified method the benefits of all people on the benefit rolls.) The provision however, operates—when a person has no earnings after 1965—to prevent a recomputation on the basis of an individual's railroad and social security earnings when, as provided by law, his earnings from both sources should be combined after his death.

A specific exception in the law is needed to make it clear that survivor's benefits will be based on the worker's combined social security and railroad earnings, as they were under the law in effect prior to the Social Security Amendments of 1967 (and as they are when they are payable under the railroad system).

Proposal

Provide that a deceased individual who during his lifetime was entitled to social security benefits and railroad compenastion and whose railroad remuneration and earnings under social security are, upon his death, to be combined for social security purposes shall have his primary insurance amount recomputed on the basis of such combined earnings, whether or not he had earnings after 1965.

Costs

The proposal would have no significant long-range costs.

E. Facilitate Disposition of Underpayments By Providing That Additional Categories of Relatives Can Be Paid Social Security Cash Benefits Due a Deceased Beneficiary

Present Law

If a beneficiary dies before receiving social security cash benefits due him, payment may be made only to a surviving spouse, child, parent, or legal representative of the deceased beneficiary's estate, in that order of priority.

Problem

Where there is no surviving spouse, child, or parent and the deceased beneficiary's estate consists of little more than social security benefits due, payment is often not made because some survivors find it too costly to take action necessary to become the legal representative of the estate. When the present order of priority was under consideration in 1967, the committee added a further category under which underpayments could be paid to persons related to the deceased individual by blood, marriage, or adoption. The Senate change was dropped from the bill by the conference committee. Since then, experience has shown that disposition of underpayments can be made in only about 60 percent of the cases without formal probate proceedings. Where formal probate procedures are necessary, the minimum cost is about $200, while 90 percent of underpayments amount to less than $150.

Proposal

Provide that, if there is no survivor in the categories listed in present law, any other relative (by blood, marriage, or adoption) of the deceased social security beneficiary may be determined by the Secretary, under regulations, to be the appropriate person to receive, on behalf of the estate, any social security payments due the deceased under title II of the Social Security Act.

Costs

The proposal would have no significant costs.

F. Provide Authorization for the Managing Trustee of the Social Security Trust Funds to Accept Money Gifts Made Unconditionally to the Social Security Administration

Present Law

There is no authorization in the law for the Managing Trustee of the social security trust funds (by law, the Secretary of the Treasury) to accept bequests, gifts, and gratuities made to any of the social security trust funds. While unrestricted bequests can be deposited in the general funds of the Federal Government, bequests restricted to any of the social security trust funds cannot be accepted without enactment of special legislation.

There is precedent in the law for the Government to accept gifts for special purposes. The Secretary of Health, Education, and Welfare can accept gifts for certain divisions of the Public Health Service, such as the National Library of Medicine, the National Cancer Institute, the National Heart Institute, St. Elizabeths Hospital, and the Cuban refugee program.

Problem

There have been some cases where money has been bequeathed to the social security trust funds. Since such a bequest cannot be accepted, confusion and delay in settling the estate often results. The Department points out that while the amount of money lost to the trust funds is insignificant, it seems unjustifiable that an act presumably motivated by appreciation for, and confidence in, a Government program should cause complicated and sometimes interminable legal problems for the survivors. Conversely, permitting bequests to the social security program to be accepted might enhance the public's view of the program in that such donations would illustrate people's appreciation of the program.

Proposal

Provide authorization for the Managing Trustee to accept money gifts made unconditionally and to deposit them in the social security trust funds.

Savings

There would be no significant increase in income to the trust funds.

G. Increased Widow's and Widower's Insurance Benefits

Under present law a wife's benefit is automatically converted to a widow's benefit if the woman is 62 or older at the time of her husband's death. Under section 104 of the bill, a wife's benefit would not be automatically converted to a widow's benefit until age 65 (under the new provision a widow's benefit would be reduced if it is taken before age 65). This will mean that a new application would have to be obtained from each new widow who has been getting wife's benefits and who wants to get a reduced widow's benefit rather than waiting until age 65 to get a full widow's benefit, with a resulting delay in the payment of the first survivor check for these widows.

Rather than requiring a new application for all widows between ages 62 and 65, it would be preferable to convert automatically to a reduced widow's benefit where the woman is not entitled to a benefit based on her own earnings. It is extremely unlikely that a woman who is not insured for benefits based on her own earnings and who has taken a reduced wife's benefit before age 65 would want her benefits terminated for a period of time after her husband's death.

Costs

The provision would have no long-range-cost effect.

IV. Other Amendments Related to Social Security Cash Benefits

AMENDMENT 696 (PROUTY AND OTHERS)

Increases minimum social security benefit from $64 ($67.20 in H.R. 17550) to $100, with benefits above that amount increased according to table which would provide a 10-percent increase at the lower benefit levels and grade down to about 1 percent at the highest levels.

AMENDMENT 697 (PROUTY AND OTHERS)

Increases special social security benefits payable to certain people over age 72 from $46 ($48.30 in H.R. 17550) to $50.20 (single) and from $69 ($72.50 in H.R. 17550) to $75.50 (married couple). (First-year cost: $122 million, of which $112 million would be from general revenues.)

AMENDMENT 698 (PROUTY AND OTHERS)

Increases earnings limitation from $1,680 ($2,000 in H.R. 17550) to $2,400. (Long-range cost: 0.8 percent of payroll; first-year cost, $280 million.)

AMENDMENT 756 (WILLIAMS OF NEW JERSEY AND OTHERS)

Increases social security benefits by 10 percent (minimum of $90 compared with $64 under present law and $67.20 in H.R. 17550) effective January 1971 and by 20 percent ($120 minimum) effective January 1972; provides a regularity of service factor for computing average monthly earnings; increases tax base from present $7,800 ($9,000 in H.R. 17550, with subsequent increases automatic) to $9,000 for 1971, to $15,000 for 1972 with automatic increases thereafter; provides for a gradually rising contribution from general revenues

to the trust funds; finances present medical insurance benefits from payroll taxes rather than from individual premiums; liberalizes the definition of disability for all workers and provides an occupational definition for workers age 55 and over; covers prescription drugs under medicare; and provides medicare benefits for disabled persons who are entitled to disability insurance benefits. (General revenue contribution rises to about $25 billion by 1980.)

AMENDMENT 780 (SAXBE)

Amends definition of "divorced wife" and "surviving divorced wife" by reducing from 20 years to 10 years the length of time a woman must have been married to be eligible for wife's benefits. (Long-range cost: 0.02 percent of payroll.)

AMENDMENT 785 (PROUTY)

Provides that the special benefits to certain uninsured people who attained age 72 before 1968 ($46 for an individual under present law; $48.30 under House bill) would be payable to people who attain age 70 before 1972. (First-year cost: $86 million, of which $80 million would be from general revenues.)

AMENDMENT 786 (HARTKE)

Allows dropping from the benefit computation 1 additional year of low earnings for every 40 quarters of coverage after the first 40 quarters. (Long-range cost: 0.04 percent of payroll; about $1.6 billion annually.)

AMENDMENT 840 (KENNEDY AND OTHERS)

Increases earnings limitation from $1,680 ($2,000 in H.R. 17550) to $2,500 a year. (Long-range cost of 0.09 percent of payroll; about $450 million annually.)

AMENDMENT 842 (PERCY)

Provides social security benefits to dependent grandchildren and to grandchildren adopted by social security beneficiaries. (Long-range cost of 0.01 percent of payroll.)

AMENDMENT 903 (SPARKMAN)

Permits payment of actuarially reduced benefits to widows as early as age 50 (minimum age under present law is 60).

AMENDMENT 933 (MONDALE)

Increases earnings limitation from $1,680 ($2,000 in H.R. 17550) to $2,400 a year. (Long-range cost: 0.08 percent of payroll; first-year cost $280 million.)

AMENDMENT 934 (MONDALE)

Provides a 10-percent increase in social security benefits, with an increase in the minimum benefit from $64 ($67.20 in H.R. 17550) to $70.40. (Long-range cost: 0.48 percent of payroll; about $2.2 billion annually.)

AMENDMENT 938 (MONDALE)

Increases social security lump sum death payments from the $255 usually paid under present law to $500 in every case and provides such payments to every person who was entitled to monthly social security benefits for the month before his death (under present law only fully insured workers can qualify for a lump sum death payment). (Long-range cost: 0.10 percent of payroll; about $500 million annually.)

AMENDMENT 939 (MONDALE)

Provides that, for purposes of the social security retirement test, earnings for months before the month in which the first cash benefit is paid would not be counted in determining whether a beneficiary had excess earnings calling for the suspension of his cash benefit payments. (Long-range cost: 0.09 percent of payroll; about $450 million annually.)

AMENDMENT 940 (MONDALE)

Provides that a worker's average monthly earnings, on which his monthly benefit amount is based, would be based on his 10 years of highest earnings.

AMENDMENT 941 (MONDALE)

Provides a special minimum social security benefit of $5 for each year in which a person worked in employment covered under social security. (Long-range cost: 0.03 percent of payroll; about $150 million annually.)