

# Proposal to Strip Workers of Social Security Earnings Based on Prior Employment Status

## *Bad for the System and an Affront to Our Values*

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Under current law, undocumented immigrants are ineligible for Social Security benefits.<sup>1</sup> However, the majority of undocumented immigrants pay taxes — including payroll taxes — for years while they work to support our economy. Current law enables immigrants who later obtain legal status to be credited for work they in fact performed.

An amendment offered by Senator John Ensign (R-NV) to the Senate's 2006 comprehensive immigration reform bill, and one likely to be offered again in 2007, is designed to prevent citizens and lawfully present immigrant workers from claiming Social Security based on earnings credited before they were authorized to work in the United States. This restriction would apply to any person who applies for a Social Security number (SSN) in the future, even after the person becomes a U.S. citizen, no matter how long he or she has worked in the U.S. and paid Social Security taxes into the system.

What's wrong with that?

### ■ **It threatens our Social Security system.**

- It breaches a bedrock principle of the Social Security system, which is that when you work and pay into the system, your retirement account is credited for your earnings. Social Security earnings would never be posted to the immigrant's account, even after the immigrant becomes a U.S. citizen.
- The proposal would deprive a worker's widow and orphaned children of the worker's Social Security benefits, even if the survivors are U.S.-born citizens.
- Voting citizens who have been deprived of their Social Security earnings will not be likely to support needed Social Security reforms.
- If their Social Security credits are denied at the time of retirement or disability, the workers will be forced to quickly expend their lifetime savings and may be forced to live the last years of their lives in poverty. This is exactly what the Social Security system is intended to prevent!

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<sup>1</sup> Noncitizens, their spouses, children, and survivors must be lawfully present to collect Social Security benefits in the U.S. Applicants for a Social Security number (SSN) on or after Jan. 1, 2004, must also have been issued a valid SSN authorized for employment before they become "fully insured" for Social Security purposes.

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■ **It undermines the goals of comprehensive immigration reform (CIR).**

- CIR is designed to provide a mechanism by which people who have been working and paying taxes in this country for years can pay a fine, go to the back of the line, and earn legal status, eventually becoming full and equal permanent members of the community.
- This amendment takes away with one hand what CIR gives with the other. It is inconsistent to promote the integration of immigrants while at the same time taking away the retirement account credits they have already earned through their tax payments — making many of them paupers once they reach old age.
- The amendment penalizes immigrants for taxes paid in the past while CIR requires immigrants to have paid back taxes in order to be eligible for permanent residency.

■ **It would reduce tax payments by deterring compliance.**

- Millions of immigrants and their employers follow the rules and pay payroll taxes on an SSN that is not valid for them to use for employment, generating approximately \$8.5 billion in taxes each year.
- Each year, more than half a million undocumented immigrants who lack an SSN take the extraordinary step of meeting their tax obligation to the federal government by using an Individual Taxpayer Identification Number (ITIN) for which they have voluntarily applied. How many individuals would want to continue to be good taxpayers when they learn that the payroll taxes they paid will be so unfairly disregarded?

■ **It is poor fiscal policy.** Relying on the unclaimed Social Security payments of immigrants who were not authorized to work at some time in the past is a shortsighted and irresponsible approach that will not strengthen the long term solvency of the trust fund. Stripping immigrants — or any other group — of their Social Security earnings is not the solution. Over the next 75 years, new immigrants will provide a net benefit of approximately \$611 billion in present value to the Social Security system. Punishing immigrants and discouraging them from paying into the system make no sense.

■ **It would burden state and local governments.** If Social Security is not available in the future when today's immigrant workers age or become disabled, state and local governments will be forced to step in and provide health, housing, and nutrition assistance. States have already been forced to absorb significant costs as the federal government has refused to provide services and supports paid for by the tax dollars of millions of legal immigrants. This amendment would simply continue this unprecedented trend, by shifting additional cost burdens to the states.

■ **It violates American values.** As a matter of basic fairness, workers who have paid into the Social Security system should be able to depend on the retirement income they have contributed.

- Under the Ensign amendment, the nest egg created by workers will be snatched away by government from both the workers and from their family members
- It is fundamentally unfair to collect taxes — both income and payroll taxes — from workers and then disqualify the taxes paid once the worker achieves legal status.
- Workers who participated in the system should get the benefits they earned.

- Citizens who have worked their whole lives could find themselves unable to qualify for Social Security, and could suffer deep hardship in their time of retirement or disability as a result, due to disqualification of their past earnings.

■ **It is misleading to frame the amendment as “combating identity fraud.”**

- Laws are already in place to criminally punish individuals who commit identity fraud in order to steal from other people, as well as to bar such individuals from becoming citizens.
- Congress should reject attempts to scapegoat immigrants for the rise in identity fraud. The spike in identity theft over the past several years has been fueled by credit card fraud, not by immigrants working without employment authorization.
- Enabling hard-working immigrants to come forward, obtain a valid SSN, and correct their Social Security records will enhance the integrity of the system, and is part of the solution.
- This amendment would strip Social Security earnings away from millions of citizens and lawfully present immigrants who worked hard and paid into the system, regardless of whether they ever in fact stole another person’s identity.

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**FOR MORE INFORMATION**

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