

## SOCIAL SECURITY ACT AMENDMENTS OF 1939

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JULY 7 (legislative day, JULY 6), 1939.—Ordered to be printed

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Mr. KING (for Mr. HARRISON), from the Committee on Finance,  
submitted the following

### R E P O R T

[To accompany H. R. 6635]

The Committee on Finance, to whom was referred the bill (H. R. 6635) to amend the Social Security Act, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

### GENERAL STATEMENT

#### DIVISIONS OF THE BILL

This bill amends the Social Security Act and certain sections of subchapters A and C of chapter 9 of the Internal Revenue Code (formerly titles VIII and IX of the Social Security Act).

The bill is divided into nine titles:

Title I—Amendments to title I of the Social Security Act (grants to States for old-age assistance).

Title II—Amendments to title II of the Social Security Act (Federal old-age benefits).

Title III—Amendments to title III of the Social Security Act (grants to States for Unemployment Compensation Administration).

Title IV—Amendments to title IV of the Social Security Act (grants to States for aid to dependent children).

Title V—Amendments to titles V and VI of the Social Security Act (grants to States for maternal and child welfare, etc.).

Title VI—Amendments to the Internal Revenue Code (provisions formerly in titles VIII and IX of the Social Security Act).

Title VII—Amendments to title X of the Social Security Act (grants to States for aid to the blind).

Title VIII—Amendments to title XI of the Social Security Act (general provisions).

Title IX—Miscellaneous amendments.

**SOCIAL SECURITY ACT AMENDMENTS OF 1939****SUMMARY OF PRINCIPAL CONTENTS OF BILL****TAXES**

1. The old-age insurance tax has been frozen at 1 percent on the worker and 1 percent on the employer for the 3 years 1940, 1941, and 1942 as against the 1½-percent rates on each under the present act. This will save employers and workers about \$275,000,000 in 1940, or a total of \$825,000,000 in the 3 years.

2. Only the first \$3,000 an employer pays an employee for a year is taxed under the unemployment-compensation provisions. This is already the case in old-age insurance. This will save employers about \$65,000,000 a year.

3. Provision is made for refunds and abatements to employers who paid their 1936, 1937, and 1938 unemployment-compensation contributions late to the States. This will save employers about \$15,000,000.

4. Thus the savings above mentioned, through 1940, may aggregate some \$355,000,000. In addition, such savings for the ensuing 2 years may amount to approximately \$550,000,000. This represents total savings of approximately \$905,000,000.

**BENEFITS**

The old-age insurance benefits have been liberalized, benefits provided for aged wives, and for widows, children, and aged dependent parents, and the date for beginning monthly benefit payments has been advanced to January 1, 1940. About \$2,093,000,000 in benefits is estimated to be disbursed during 1940-44, or about \$1,538,000,000 above what it is estimated would be spent under existing law during these 5 years.

The total cost of these benefits over the next 45 years will be about the same as the cost of the present benefits would be during that period of time. Of course, the cost in the early years will be more but the cost in the later years will be less.

**COVERAGE**

1. Certain services, including services for agricultural and horticultural associations, voluntary employees' beneficiary associations, local or ritualistic services for fraternal beneficiary societies, and services of employees earning nominal amounts (less than \$45 per quarter) of nonprofit institutions exempt from income tax, are exempted from old-age insurance and unemployment compensation in order to eliminate the nuisance cases of inconsequential tax payments.

2. The term "agricultural labor" is defined so as to clarify its meaning and to extend the exemption to certain types of service which, although not at present exempt, are an integral part of farming activities.

3. About 1,100,000 additional persons (seamen, bank employees, and employed persons age 65 and over) are brought under the old-age insurance system and about 200,000 under unemployment insurance (chiefly bank employees).

MATERNAL AND CHILD WELFARE, VOCATIONAL REHABILITATION, AND  
PUBLIC-HEALTH WORK

1. Provision is made for a \$2,020,000 increase in the authorization for Federal grants to the States for maternal- and child-health services. This will increase the present Federal authorization from \$3,800,000 to \$5,820,000.

2. Provision is made for a \$1,020,000 increase in the authorization for Federal grants to the States for crippled children. This will increase the present Federal authorization from \$2,850,000 to \$3,870,000.

3. Provision is made for a \$2,062,000 increase in the authorization for Federal grants to the States for vocational rehabilitation work. This will increase the present Federal authorization from \$1,938,000 to \$4,000,000.

4. Provision is made for a \$4,000,000 increase in the authorization for Federal grants to the States for public-health work. This will increase the present Federal authorization from \$8,000,000 to \$12,000,000.

## ADMINISTRATION

1. A Federal old-age and survivor insurance trust fund is created for safeguarding the insurance benefit funds. The Secretary of the Treasury, the Secretary of Labor, and the Chairman of the Social Security Board are made trustees of this fund.

2. Provision is made to restrict the use of information concerning recipients of State old-age assistance (particularly their names and addresses) to purposes directly connected with the administration of old-age assistance. This is designed to prevent the use of such information for political and commercial purposes.

3. Other amendments are recommended to simplify and clarify administration of the law.

## HISTORY OF LEGISLATION

The Social Security Act became law on August 14, 1935, after many months of deliberation in Congress. The bill was passed by an overwhelming majority in both the House and the Senate, the votes being 372 to 33 and 77 to 6, respectively. The insurance provisions of the present act were upheld by the United States Supreme Court in the cases of *Steward Machine Co. v. Davis* (301 U. S. 548); *Helvering v. Davis* (301 U. S. 619); and *Carmichael v. Southern Coal Co.* (301 U. S. 495).

The enactment of the Social Security Act marked a new era, the Federal Government accepting, for the first time, responsibility for providing a systematic program of protection against economic and social hazards. Though admittedly not perfect or all inclusive, the Social Security Act did embrace the broadest program for social security ever launched at one time by any government.

*Relieving and reducing dependency.*—The Social Security Act aimed to attack the problem of insecurity upon two fronts: First, by providing safeguards designed to reduce future dependency, and second, by improving the methods of relieving existing needs. The first objective was promoted by providing a Federal system of old-age insurance and by granting Federal aid to State-administered

programs of unemployment compensation; the second objective was promoted by providing Federal grants to State programs of aid to the needy aged, aid to dependent children, and aid to the needy blind. Funds were also provided to stimulate development and extension of various health and welfare services.

*Public assistance.*—Under the Social Security Act, great progress has already been made. As a result of the Federal aid provided in the Social Security Act, the States were enabled to extend their assistance programs to the needy aged, dependent children, and the needy blind. All the States, the District of Columbia, Alaska, and Hawaii now have approved plans for old-age assistance and receive Federal funds to supplement their contributions. Forty States, the District of Columbia, and Hawaii participate in the Federal-State program for aid to dependent children, and an equal number are receiving Federal grants for aid to the needy blind. Some 2,500,000 needy individuals are now receiving regular cash assistance under these cooperative Federal-State programs. From the beginning of the system through June 1939, over \$1,300,000,000 of Federal, State, and local funds have been spent in States with plans approved by the Social Security Board. During the calendar year 1938 the total Federal, State, and local expenditures were over \$495,000,000, of which \$391,000,000 was for old-age assistance, \$93,000,000 for aid to dependent children, and \$11,000,000 for aid to the blind.

*Unemployment compensation.*—The incentives provided in the Social Security Act stimulated rapid passage of State unemployment compensation laws. Before the act was passed, only 1 State, Wisconsin, had a going system of unemployment insurance; now all the 48 States and Alaska, Hawaii, and the District of Columbia have approved laws. Benefits are already being paid to unemployed covered workers under all but 2 of these laws; in the last 2 States (Illinois and Montana) benefits became payable on July 1 of this year. More than 27,500,000 workers are covered by these laws and about 3,800,000 temporarily unemployed workers received benefits amounting to nearly \$400,000,000 during the year 1938. In addition, about \$228,000,000 has been paid to unemployed workers during the first 6 months of 1939.

*Old-age insurance.*—The full effect of the Federal old-age insurance program will not be felt until monthly benefits begin to be paid. In the meantime, however, the Social Security Board has established wage-record accounts for over 44,000,000 persons, of whom more than 32,000,000 have already had wages reported in either 1937 or 1938, thus enabling these individuals to build up rights to protection for themselves and their dependents upon a sound basis. In addition, lump-sum benefits, amounting to 3½ percent of accumulated covered earnings, totaling about \$18,712,000, have been paid up to May 30, 1939, to or on behalf of over 363,000 persons who reached age 65 or died.

*Revision of Social Security Act.*—Tremendous as is the scope of this program, it was recognized from the beginning that changes would have to be made as experience and study indicated lines of revision and improvement. Congress, therefore, expressly provided in the Social Security Act that the Social Security Board should study and make recommendations as to methods of providing more effective economic security.

~~including members representing employers, employees, and the public.~~  
The Advisory Council spent more than a year in study and deliberation and transmitted its final report and recommendations on December 19, 1938.

The recommendations of the Social Security Board, based upon 3 years of intensive study, were submitted to the President of the United States on December 30, 1938. The President transmitted the Board's report to Congress, with a special message on January 16, 1939.

The Committee on Ways and Means of the House of Representatives held extended public hearings on these recommendations and alternative proposals relating to social security. The bill was referred to this committee on June 12, 1939. All witnesses who requested to be heard were allowed to appear in public hearings and their statements and testimony appear in the printed hearings.

### GENERAL PURPOSE AND SCOPE OF AMENDMENTS

The present bill aims to strengthen and extend the principles and objectives of the Social Security Act. The foundations of a permanent program have been laid and it seems wise to build upon the present structure.

Old-age insurance, unemployment compensation, and public assistance are now accepted as permanent in our fabric of social services. The present bill is designed to widen the scope and to improve the adequacy and the administration of these programs without altering their essential features. Benefits will continue to be payable as a matter of right to workers covered by the insurance programs; aid will continue to be related to need under the assistance programs.

### FEDERAL OLD-AGE AND SURVIVORS INSURANCE BENEFITS

The number of aged persons in our population is steadily growing. In 1900 there were only 3,080,000 persons 65 and over, representing 4.1 percent of the population. This figure reached 6,634,000, or 5.4 percent, in 1930, and it is estimated there are about 8,200,000, or 6.3 percent, at the present time. Recent estimates indicate that by 1980 we may have over 22,000,000 persons aged 65 and over, representing 14 to 16 percent of the total population. Recognizing these facts, it is possible to foresee that we shall have a growing number of aged persons for whom some provision must be made. This has been the experience of all industrial countries.

In the course of its study of the problem, the committee has become increasingly impressed by the need to revise the existing old-age insurance program in the direction of fitting the structure of benefits more closely to the basic needs of our people, now and in the future. With limited funds available for this type of insurance protection individual savings and other resources must continue to be the chief reliance for security. As a means of affording basic protection, however, the existing system can be much improved. With the advantage of more than 3 years of study and experience since the passage of the act, and with a greatly enhanced public understanding of the

method of social insurance, the time seems ripe for the revision of the program to afford more adequate protection to more of our people. Under the present old-age insurance system monthly benefits would not begin until 1942; for a considerable number of years thereafter benefits would remain small and would in many cases have to be supplemented by old-age assistance. Such assistance, based on individual need, is also necessary for those already old, and will continue to be necessary for groups outside the insurance system. For insured groups, however, it is both desirable and possible to provide immediately more adequate protection within the framework of the contributory system.

Old-age insurance is designed to prevent future old-age dependency; old-age assistance is designed to relieve existing needs. A contributory system of old-age insurance keeps the cost of old-age assistance from becoming excessive and assures support for the aged as an earned right. If the contributory system is strengthened and liberalized, the cost of old-age assistance for uncovered groups will not increase so rapidly in future years when the proportion of aged in the population will be much higher than at present.

It is essential then that the contributory basis of our old-age insurance system be strengthened and not weakened. Contributory insurance is the best-known method of preventing dependency in old age by enabling wage earners to provide during their working years for their support after their retirement. By relating benefits to contributions or earnings, contributory old-age insurance preserves individual thrift and incentive; by granting benefits as a matter of right it preserves individual dignity. Contributory insurance therefore strengthens democratic principles and avoids paternalistic methods of providing old-age security. Moreover, a contributory basis facilitates the financing of a social-insurance scheme and is a safeguard against excessive liberalization of benefits as well as a protection against reduction of benefits.

The contributory method in social insurance is no innovation. It had its beginning several hundred years ago in several countries when small groups of workmen banded together in mutual-benefit societies to build up group protection against unforeseen contingencies. These early friendly societies developed the insurance method of protection which, by a gradual process of evolution, led to modern social insurance with the Government entering to strengthen cooperative thrift and mutual protection. The contributory method of social insurance has stood the test of time and experience. Proof of this is the fact that no country which has once adopted a system of contributory social insurance has ever abandoned it. Many foreign countries, as does the United States, supplement their contributory scheme with a noncontributory pension scheme based on individual need, but no country has ever given up the former system in favor of the latter.

Under the present old-age insurance system only taxes have been payable since 1937, while monthly benefits are not payable until January 1, 1942. So long as only taxes are payable and monthly benefits are postponed, the general public is under a misapprehension as to the financial operations of the plan and lacks a concrete demonstration of the effectiveness of the plan in providing protection. The Table 1 shows the benefit disbursements of the present plan year by year for the 15 years 1940-55, inclusive, the comparable disbursements of the plan as recommended by the Senate Committee on Finance, and the additional disbursements of the Finance Committee's

plan over the present title II. The plan recommended by the Senate Finance Committee increases benefit disbursements about \$695,000,000 more in the 15 years 1940-55, inclusive, over the House bill. A more detailed explanation of the cost figures will be found on pages 15-17.

House bill as amended by this committee with respect to the old-age insurance plan, it is hoped, will help to improve the understanding of the aims of a contributory social-insurance plan.

*Providing more effective benefits.*—The basic problem was how to provide more adequate and effective benefits, particularly in the early years of operation, without increasing the future cost of the old-age insurance system. The bill solves this problem in two principal ways, as follows:

1. Monthly benefits to wives, children, widows, orphans, and surviving dependent parents are substituted for the present 3½-percent lump sums payable to the estates of deceased workers.

2. The benefits of both single and married persons retiring in the early years are increased but the benefits of single persons with high earnings retiring years hence are reduced somewhat. However, the benefits proposed for single persons are higher than could be purchased with the employee's own contributions, except possibly in a very few extreme cases.

In other words, the effect of these changes will be to provide for larger benefits in the early years than under the present law and larger than could be purchased by an insured worker from a private insurance company with the amount he has paid the Government. This is particularly true in the case of married persons. However, this does not mean that unmarried persons who will contribute for many years will receive less protection from the Government than they could purchase from a private insurance company with their own contributions. It does mean, however, that a larger proportion of the employer's contributions are used to pay benefits to those retiring in the early years, particularly married persons.

Thus, various changes made by the bill are designed to afford more adequate protection to the family as a unit. The present law provides for only two general types of benefits, (1) monthly old-age benefits to qualified individuals and (2) lump-sum payments to nonqualified individuals and upon death. The present law is, therefore, limited in its scope in that it does not provide current monthly benefits to the surviving wife of an aged annuitant, nor to the surviving widow with dependent children. The payment of these survivorship benefits and supplements for the wife of an annuitant are more in keeping with the principle of social insurance than the 3½-percent lump-sum payments now provided. Under a social-insurance plan the primary purpose is to pay benefits in accordance with the probable needs of the beneficiaries rather than to make payments to the estate of a deceased person regardless of whether or not he leaves dependents. There is ample precedent for such provision, since 15 out of 22 old-age insurance systems of foreign countries make provision for survivor benefits.

*Cost of more adequate benefits.*—The net effect of the changes is that the annual cost of the benefits payable in the early years will be greater, the annual cost of the benefits payable in the later years will be less, and the average annual cost over the next 40 years will be about the same as under the present system.

TABLE 1.—Comparison of benefit payments under present Federal old-age insurance plan, House bill, and under revised plan of the Senate Committee on Finance on the basis of the intermediate retirement rate estimates

Calendar year	Present title II	House plan	Revised plan
1940.....	\$46,000,000	\$88,000,000	\$114,000,000
1941.....	42,000,000	211,000,000	298,000,000
1942.....	92,000,000	350,000,000	431,000,000
1943.....	150,000,000	508,000,000	583,000,000
1944.....	221,000,000	608,000,000	667,000,000
1945.....	290,000,000	713,000,000	776,000,000
1946.....	403,000,000	855,000,000	912,000,000
1947.....	501,000,000	997,000,000	1,048,000,000
1948.....	615,000,000	1,134,000,000	1,179,000,000
1949.....	725,000,000	1,265,000,000	1,304,000,000
1950.....	834,000,000	1,399,000,000	1,422,000,000
1951.....	971,000,000	1,523,000,000	1,550,000,000
1952.....	1,078,000,000	1,621,000,000	1,642,000,000
1953.....	1,193,000,000	1,719,000,000	1,733,000,000
1954.....	1,338,000,000	1,843,000,000	1,850,000,000
Total 1940-54, inclusive.....	8,499,000,000	14,814,000,000	15,509,000,000

Before beginning a more detailed explanation of the revised benefit provisions, the following summary presents a brief outline of the new benefit plan.

#### SUMMARY OUTLINE OF BENEFIT PROVISIONS UNDER THE REVISED FEDERAL OLD-AGE AND SURVIVORS' INSURANCE PLAN

EFFECTIVE DATE—JANUARY 1, 1940

##### OLD-AGE RETIREMENT BENEFITS

1. *Old-age benefit.*—Each fully insured individual who has reached the age of 65 is eligible to receive a monthly primary (old-age) insurance benefit determined as follows:

(a) A basic amount computed by applying: 40 percent of average monthly wages, up to the first \$50, plus 10 percent of average monthly wages in excess of \$50.

(b) Such amount to be increased 1 percent for each year of coverage (\$200 or more wages).

2. *Supplement for wife.*—In addition, the wife, age 65 and over, of an individual entitled to primary insurance benefits, if she is living with such individual, is eligible for a supplement which, when added to her primary insurance benefit, if any, equals one-half of a primary old-age insurance benefit of her husband.

3. *Supplement for children.*—In addition each unmarried dependent child, under age 18, of an individual entitled to primary insurance benefits, is eligible for a supplement of one-half of a primary insurance benefit of the parent.

##### SURVIVORS' BENEFITS

1. *Widows' old-age insurance benefits.*—A widow of a fully insured individual, who has attained age 65 and who was living with such individual when he died, is eligible for a monthly benefit which when added to her primary insurance benefit, if any, is equal to three-fourths of a primary insurance benefit of her husband.

2. *Orphans' monthly insurance benefits.*—A fully or currently insured individual's unmarried dependent orphan under age 18 is eligible for

an orphan's benefit equal to one-half of a primary insurance benefit of the parent.

3. *Current monthly insurance benefit to widow with children.*—A widow, regardless of age, of a fully or currently insured individual, who was living with such individual when he died, and has in her care one or more children entitled to child's benefits receives a monthly benefit which, when added to her primary insurance benefit, if any, is equal to three-fourths of his primary insurance benefit.

4. *Parents' insurance benefits.*—A parent of a fully insured individual who dies leaving no widow and no unmarried child under age 18, if such parent has attained age 65, has not married since the fully insured individual's death, and was wholly dependent upon such individual at the time of such death, is eligible for a monthly benefit which, when added to the parent's other monthly benefits, if any, is equal to one-half of the primary insurance benefit of such fully insured individual.

5. *Lump-sum death payment.*—Upon the death of a fully or currently insured individual, leaving no one immediately entitled to a monthly benefit, a lump sum equal to six times the monthly primary insurance benefit is payable to a surviving close relative, or if no close relative, the person assuming responsibility for the funeral expenses of the deceased to the extent of his actual disbursements.

#### MINIMUM AND MAXIMUM BENEFITS —

The minimum primary insurance benefit payable shall be not less than \$10 per month. The maximum benefit or benefits payable shall be not more than double the primary insurance benefit, 80 percent of average wages, or \$85, whichever is the smallest.

#### EFFECTIVE DATE

The first major change proposed is to advance the date for beginning the payment of monthly old-age insurance benefits from January 1, 1942, to January 1, 1940. From an administrative standpoint such an amendment is entirely practicable since the maintenance of wage records is already functioning successfully. Personnel has been trained and experience has been acquired in all phases of the program. Approximately 44,000,000 account numbers have been assigned, and the individual account for each worker set up by the Social Security Board. Furthermore, a network of over 300 field offices has been set up and is functioning. These offices have already handled over 400,000 claims for lump-sum benefits. The experience obtained in adjudicating these claims indicates that the necessary groundwork has been laid to permit the payment of monthly benefits in 1940. The payment of monthly benefits in 1940 is in keeping with the experience under the social insurance laws of Great Britain, Czechoslovakia, and Germany where old-age insurance benefits were paid within 2 years after contributions first began.

#### LIBERALIZED AMOUNTS

The second major change proposed is the liberalization of benefits to insured workers retiring in the early years of the system. This liberalization is effected by two important changes. First, the benefit base is changed from total accumulated wages to average wages; second, supplementary benefits are provided in those cases

where the annuitant has an aged wife (as well as in the rare cases where there are dependent children). Table 2 shows illustrative monthly old-age insurance benefits under the present plan and under the revised plan.

TABLE 2.—Illustrative monthly old-age insurance benefits under present plan and under revised plan <sup>1</sup>

	Present plan	Revised plan		Present plan	Revised plan	
		Single	Married <sup>2</sup>		Single	Married <sup>2</sup>
	Average monthly wage of \$50			Average monthly wage of \$100		
Years of coverage:	( <sup>3</sup> )			( <sup>3</sup> )		
3.....	\$17.00	\$20.00	\$20.00	\$17.50	\$25.75	\$38.63
5.....	17.00	21.00	31.50	22.50	26.25	39.38
10.....	22.50	22.00	33.00	27.50	27.50	41.25
20.....	27.50	24.00	36.00	32.50	30.00	45.00
30.....	32.50	26.00	39.00	42.50	32.50	48.75
40.....	32.50	28.00	40.00	51.25	35.00	52.50
	Average monthly wage of \$150			Average monthly wage of \$250		
3.....	( <sup>3</sup> )	\$30.00	\$46.35	( <sup>3</sup> )	\$41.25	\$61.80
5.....	\$20.00	31.50	47.25	\$25.00	42.00	63.00
10.....	27.50	33.00	49.50	37.50	44.00	66.00
20.....	42.50	36.00	54.00	56.25	48.00	72.00
30.....	53.75	39.00	58.50	68.75	52.00	78.00
40.....	61.25	42.00	63.00	81.25	56.00	84.00

<sup>1</sup> It is assumed, with respect to the revised plan, that an individual earns at least \$200 in each year of coverage in order to be eligible to receive the 1-percent increment. If this were not the case, the benefit would be somewhat lower.

<sup>2</sup> Benefits for a married couple without children where wife is eligible for a supplement.

<sup>3</sup> Benefits not paid until after 5 years of coverage

#### REVISED BENEFIT FORMULA

An average wage formula will relate benefits more closely to normal wages during productive years. Since the object of social insurance is to compensate for wage loss, it is imperative that benefits be reasonably related to the wages of the individual. This insures that the cost of the benefits will stay within reasonable limits and that the system will be flexible enough to meet the wide variations in earnings which exist.

An average wage formula will also have the effect of raising the level of benefits payable in the early years of the system, but it will reduce future costs by eliminating unwarranted bonuses payable under the present formula to workers in insured employment only a few years. These bonuses result from the greater weight now given to the first \$3,000 of accumulated wages. They are justified, if a total wage formula is used, in the case of older and low-paid workers who retire in the early years of the system and have not time in which to build up substantial benefit rights. In the long run, however, such bonuses are unwise and endanger the solvency of the system by permitting disproportionately large benefits to workers who migrate between uninsured and insured employments and accumulate only small earnings in insured employment.

In order to relate benefits to length of employment, as well as to average wages, a 1 percent increment for each year of covered earnings

of \$200 or more is added to the basic benefit. Thus, the longer a worker is in the system the larger will be his benefit.

*Supplementary benefits.*—The supplementary benefit payable an aged wife is one-half of the primary insurance benefit of the annuitant. (The same amount is payable for each dependent child.) Because most wives, in the long run, will build up wage credits on their own account, as a result of their own employment, these supplementary allowances will add but little to the ultimate cost of the system. They will, on the other hand, greatly increase the adequacy and equity of the system by recognizing that the probable need of a married couple is greater than that of a single individual.

These changes in the benefit pattern are primarily designed to increase the adequacy of the system during the early years without altering the long-run cost proportions of the existing plan. They are not temporary improvements, however, but represent constructive changes, which will increase the adequacy of the Federal old-age insurance system.

#### SURVIVORS BENEFITS

The bill contains a third major change, designed to improve the long-run effectiveness of our insurance system. This amendment proposes to establish monthly survivors benefits. The Social Security Act now provides a certain amount of survivorship protection in the form of lump-sum payments. These are small and inadequate in the early years of the system and entirely unrelated to the needs of the recipients. However they will eventually be rather costly and will not provide protection in those cases where most needed. The new plan will eliminate most lump-sum benefits and will substitute monthly benefits for those groups of survivors whose probable need is greatest. These groups are widows over 65, widows with children, orphans, and dependent parents over 65. The monthly benefits payable to these survivors are related in size to the deceased individual's past monthly benefit or the monthly benefit he would have received on attaining age 65.

In the case of a widow, the monthly benefit is three-fourths of the deceased's monthly benefit or prospective benefit. In the case of an orphan or dependent parent, it is one-half of the deceased's monthly benefit or prospective benefit.

A monthly benefit will be payable to a parent only if no widow or unmarried child under age 18 survived, and only if the parent was wholly dependent upon the deceased at time of death. While it would thus be necessary for a parent to prove dependency at the time of death, once that fact had been established no subsequent showing of need would be required. Ample precedent for such provisions is found in the State workmen's compensation laws, which constitute the oldest form of social insurance in this country.

Illustrative benefits are shown in table 3. As has already been stated, these new monthly benefits can be provided without exceeding the eventual costs of the system as now set up, because of the reduction in lump-sum death benefits and the future benefits to single persons.

TABLE 3.—*Illustrative monthly survivor benefits*<sup>1</sup>

	One child or parent 65 or over	Widow, 65 or over	Widow and one child	One child or parent 65 or over	Widow, 65 or over	Widow and one child
	Average monthly wage of deceased, \$50			Average monthly wage of deceased, \$100		
<b>Years of coverage:</b>						
3.....	\$10.30	\$15.45	\$25.75	\$12.88	\$19.31	\$32.19
5.....	10.50	15.75	26.25	13.13	19.69	32.81
10.....	11.00	16.50	27.50	13.75	20.63	34.38
20.....	12.00	18.00	30.00	15.00	22.50	37.50
30.....	13.00	19.50	32.50	16.25	24.38	40.63
40.....	14.00	21.00	35.00	17.50	26.25	43.75
	Average monthly wage of deceased, \$150			Average monthly wage of deceased, \$250		
<b>Years of coverage:</b>						
3.....	\$15.45	\$23.18	\$38.63	\$20.60	\$30.90	\$51.50
5.....	15.75	23.63	39.38	21.00	31.50	52.50
10.....	16.50	24.75	41.25	22.00	33.00	55.00
20.....	18.00	27.00	45.00	24.00	36.00	60.00
30.....	19.50	29.25	48.75	26.00	39.00	65.00
40.....	21.00	31.50	52.50	28.00	42.00	70.00

<sup>1</sup> It is assumed that an individual earns at least \$200 in each year of coverage. If this were not the case, the benefit would be somewhat lower.

Not all lump-sum payments are eliminated under the new plan. Upon the death of an insured individual leaving no one immediately entitled to a monthly benefit, there will be paid a lump-sum benefit of six times the monthly benefit of the deceased. This lump sum will be paid to a surviving close relative, or if no close relative exists, then to the person assuming the responsibility for the funeral expenses of the deceased person to the extent of his actual disbursements.

Table 4 shows illustrative lump sums payable in these cases.

TABLE 4. *Illustrative lump-sum death payments payable equal to 6 times the primary insurance benefit*

	Average monthly wages:			
	\$50	\$100	\$150	\$250
<b>Years of coverage:</b>				
3.....	\$123.60	\$154.50	\$135.40	\$247.20
5.....	126.00	157.50	139.00	252.00
10.....	132.00	165.00	148.00	264.00
20.....	144.00	180.00	160.00	288.00
30.....	156.00	195.00	174.00	312.00
40.....	168.00	210.00	188.00	336.00

#### QUALIFYING PROVISIONS

The amendments provide a revision in the requirements concerning the length of time covered and amount of wages that must have been earned under the system in order to establish eligibility for benefits.

The revised requirements for benefits are similar in principle to those found in the present law but are changed in several respects, due to the following reasons:

1. Since payment of benefits would be advanced to 1940, the number of qualifying quarters and the amount of wages are reduced in the early years.

2. Since wages after the age of 65 were not counted during 1937, 1938, and 1939, the qualification provisions are adjusted to permit such persons to qualify without undue hardship.

3. The present law permits persons who are in insured employment for only a short time to receive very large benefits in comparison to their contributions. In order to reduce the cost of paying benefits to these persons who shift between insured and uninsured employment, there have been added provisions to protect the system in future years.

4. The addition of widows' and orphans' benefits necessitates a shorter qualifying period for current insurance protection in the case of persons who die without having been employed as long as is required to qualify for old-age insurance benefits.

#### "FULLY INSURED" AND "CURRENTLY INSURED"

Your committee have given particular attention to the border-line situations which will arise in the early years of the proposed old-age and survivors insurance system whereby some persons will barely qualify for benefits and other persons will barely miss qualifying for benefits. It is inevitable that border-line situations will arise in the early years of any contributory social-insurance system which does not cover all of the gainfully occupied persons. It is also true that the border-line situations existing under the proposed amendments are not so serious as the border-line situations which would arise under the present law. Under the present law, if a person reaches age 65 without having met the eligibility requirements, it is impossible for him ever to qualify for a monthly benefit by earnings after reaching age 65. Under the proposed amendments a person who fails to qualify for monthly benefits by the time he reaches age 65 can nevertheless qualify by earnings received after age 65 in insured employment. However, your committee believes that the border-line situations that still arise under the amendments should be reduced to a minimum. Accordingly the eligibility conditions have been reworded although the essential elements contained in the bill passed by the House are retained. Likewise, it is recommended that wages of persons over 65 years of age be counted for benefit and tax purposes beginning on January 1, 1939, instead of January 1, 1940.

In the bill passed by the House a distinction is made between a "fully insured" individual, as one who has satisfied the eligibility requirements for all benefits (old age as well as survivorship) and a "currently insured" individual, as one who has satisfied the eligibility requirements for survivorship benefits only. The eligibility conditions for a "fully insured" individual are greater than for a "currently insured" individual. This distinction is necessary in order to furnish more immediate protection to survivors against the risk of premature death of the breadwinner while not unduly relaxing the requirements for old-age-retirement benefits which is a future risk against which workers have an opportunity to build up advance protection.

In substance, the definition of a "currently insured" individual in the bill passed by the House is one who has earned \$50 in one-half of the 12 calendar quarters preceding his death. Your committee do not propose to make a change in this definition of a "currently insured" individual. They do recommend, however, that the definition of a "fully insured" individual, which is now expressed in terms of calendar years, be expressed in terms of calendar quarters instead. The definition of a "fully insured" individual suggested by your committee is in substance as follows: An individual who has earned at least \$50 in each of one-half of the calendar quarters elapsing since December 31, 1936 (or since he became 21 years of age, if later) and the date when he died or became 65 years of age. A minimum of 6 quarters and a maximum of 40 quarters of such earnings would be required. Your committee believe that this change from calendar years to calendar quarters in the definition more effectively establishes the individual's past participation in insured employment and consequently eliminates the necessity for a requirement as to aggregate earnings as contained in the bill as passed by the House. Your committee also believe that it warrants a change in the maximum period of time in insured employment from 15 years, as in the House bill, to 40 quarters.

The change suggested above would not only have the advantage of using calendar quarters in defining both a "fully insured" individual and a "currently insured" individual but would have two added advantages. It would enable a person who had reached age 65 and had just missed qualifying to qualify by earning an additional \$50 in a subsequent quarter instead of an additional \$200 in a subsequent year.

It would also permit a smoother progressive increase in the eligibility requirements as the insurance system matures. This is important since some progressive increase in the eligibility requirements as the insurance system matures is essential in order to make certain that the benefits bear a reasonable relationship to contributions and wage loss. It is necessary if a social-insurance system is to be adequate to pay benefits to those retiring in the early years which are in excess of the actuarial value of their contributions since they have not had an opportunity to make sufficient contributions in the past. It is also obvious that the earnings qualifications cannot be as strict in the early years because those reaching retirement age in these years have had only a limited opportunity to demonstrate their earnings record since the system went into effect. However, as the system grows older and the opportunity to establish a contributions and age record increases, it is desirable that the contributions and earnings qualifications also be strengthened in order to make certain that benefits are reasonably related to contributions and loss of earnings.

The change in the definition of a "fully insured" individual in itself will permit some very low-paid and intermittently employed workers to qualify who could not otherwise qualify, but in general it does not liberalize to any considerable extent the eligibility requirements contained in the bill as passed by the House. However, the other recommendation of your committee—namely, that the earnings of persons age 65 and over in covered employment be counted for both benefit and tax purposes beginning January 1, 1939, instead of January 1, 1940—does greatly increase the number of persons now 65 years of

age who will be able to qualify for benefits in 1940 and subsequent years. It is, of course, these individuals who have already reached age 65 who will be the first to retire, but the present law disregards for both benefit and tax purposes all wages earned after age 65, thereby making it most difficult for these individuals to qualify. The change suggested would enable all persons who have reached age 65 prior to January 1, 1939, to develop or complete a qualifying wage record beginning January 1, 1939, instead of January 1, 1940. It is estimated that the effect of this change would be to enable more than twice as many persons to qualify in 1940 as could qualify if the wages of persons over 65 years of age were not taken into consideration until January 1, 1940. Of course, even without this change many of these individuals would qualify in 1941 and subsequent years instead of in 1940. However, the effect of the change is to increase the amount of benefits that will be payable during the 15-year period 1940-54, inclusive, by \$695,000,000. Table 1 shows the combined effect on benefit payments during this period of the time of the changes suggested by your committee. Table 6 shows the progress of the reserve after taking into account these changes.

#### INDIVIDUAL EQUITY PRESERVED

The proposed revision, while maintaining a reasonable relationship between past earnings and future benefits, provides proportionately greater protection for the low-wage earner and the short-time wage earner than for those more favorably situated. But practically every worker, regardless of his level of wages or of the length of time during which he has contributed, would receive more by way of protection than he could have purchased from a private insurance company at a cost equal to his own contributions. In other words, the system recognizes the principle of individual equity, as well as the principle of social adequacy. It has been possible to incorporate in the system both these aspects of security by utilizing a larger proportion of employers' contributions to pay benefits to those retiring in the early years and to low-wage earners. This is similar to the procedure which is followed in private pension plans which recognize that the employer must contribute more liberally in behalf of older workers if they are to have sufficient income to retire.

Table 5 shows that under the tax and benefit plan as recommended every worker will receive more in protection for at least the next 40 years than he could purchase from a private insurance company with his own contributions. Even in an extreme case of a single person earning \$250 per month for the next 45 years, the annuity purchasable elsewhere would amount to only 30 cents per month more than the \$58 per month such person would be entitled to under the revised plan.

TABLE 5.—Theoretical monthly annuities purchasable with only employee tax and benefits under proposed plan, for single men entering the system January 1, 1937<sup>1</sup>

	Suggested plan	Purchasable annuity	Suggested plan	Purchasable annuity
	Level monthly wage of \$50		Level monthly wage of \$100	
Years of coverage:				
3.....	\$90.00	( <sup>v</sup> )	\$26.75	( <sup>v</sup> )
5.....	21.00	( <sup>v</sup> )	26.25	( <sup>v</sup> )
10.....	22.00	( <sup>v</sup> )	27.50	
20.....	24.00	\$1.55	30.00	\$0.41
30.....	26.00	4.25	32.50	2.95
40.....	28.00	8.16	35.00	9.51
45.....	29.00	10.68	36.25	17.40
				22.58
	Level monthly wage of \$150		Level monthly wage of \$250	
3.....	\$30.00	( <sup>v</sup> )	\$41.20	( <sup>v</sup> )
5.....	31.50	( <sup>v</sup> )	42.00	( <sup>v</sup> )
10.....	33.00	\$0.94	44.00	\$1.90
20.....	36.00	6.35	48.00	11.14
30.....	39.00	14.77	52.00	25.20
40.....	42.00	26.81	56.00	45.46
45.....	43.50	34.49	58.00	58.20

<sup>1</sup> These calculations are based upon the Standard annuity table, at 3 percent interest. Taxes less 10-percent allowance for expenses are used for theoretic premiums. Part of the taxes are applied to the purchase of a death benefit which is identical with that of the suggested plan, and the remainder of the taxes are applied to the purchase of a deferred annuity with no death benefit.

The following assumptions have been made:

As regards taxes: A 1-percent tax rate on employer and also on employee through 1942; a 2-percent tax rate on each in 1943-45; a 2½-percent tax rate on each in 1946-48; and a 3-percent tax rate on each in 1949 and thereafter.

As regards benefits: Continuous years of coverage from age at entry to age 65, retirement at age 65; individual remains single for his entire lifetime and does not leave a widow, a child under 18, or a dependent parent.

<sup>2</sup> Taxes are used up entirely in purchasing the lump-sum death benefit so that no annuity is purchasable.

#### FINANCING

Certain amendments are proposed which affect the financial framework of the old-age insurance system. First, the old-age reserve account is changed to a Federal old-age and survivors insurance trust fund with the Secretary of the Treasury, the Secretary of Labor, and the Chairman of the Social Security Board, all ex officio, acting as a board of trustees. The board of trustees will supervise the fund and will report to Congress annually and whenever the trust fund becomes unduly small or exceeds three times the highest annual expenditure anticipated in the ensuing 5-fiscal-year period. The Secretary of the Treasury will serve as managing trustee of the fund. All assets credited to the reserve account as of January 1, 1940, are transferred to the trust fund when the reserve account is abolished on that date. It is further proposed that an amount equal to the full amount of the old-age insurance taxes collected in the future be permanently appropriated to the trust fund. Provision is made for the administrative costs of the plan to be met from the trust fund.

The method of investing that portion of the trust fund not needed for current claims or administrative purposes will be like that now provided in the case of the unemployment trust fund. Instead of a minimum 3-percent interest on the investments of the present old-age reserve account, the Federal old-age and survivors insurance trust fund, like the unemployment trust fund, will earn interest at the current average rate of interest borne by all outstanding interest-bearing obligations composing the public debt. At the present time

the rate of interest being paid to the unemployment trust fund is 2½ percent.

The present tax schedule is amended so that the current rate of 1 percent on employers and 1 percent on employees is continued until 1943. This postponement in the tax step-up will save employers and workers about \$275,000,000 for 1940 or a total of \$825,000,000 for the 3 years 1940, 1941, and 1942. However, no change is made in the tax schedule thereafter. The rates will still increase to 2 percent in 1943, 2½ percent in 1946, and 3 percent in 1949 and thereafter.

The result of the changes from existing law with respect to taxes and benefits on the size of the reserve and the amount of the benefit payments is shown in table 6. It should be noted that the maximum reserve built up in the period shown will be between six and seven billion dollars. It should also be noted that the size of the reserve will conform closely to the recommendation of the Secretary of the Treasury of an "eventual reserve amounting to not more than three times the highest prospective annual benefits in the ensuing 5 years."

TABLE 6.—Progress of reserve under the intermediate retirement estimate of benefit disbursements with interest at 2½ percent. Tax rate at 2 percent until Jan. 1, 1943, and thereafter following the present schedule

(In millions of dollars)

	1940	1941	1942	1943	1944	1945	1950	1955
Net tax receipts (gross receipts minus administrative expenses) <sup>1</sup> .....	501	506	504	919	1,067	1,078	1,761	1,849
Less benefit payments.....	114	298	431	583	667	776	1,422	1,940
Net cash receipts to Government.....	387	207	73	336	400	302	329	-81
Add interest at 2½ percent.....	41	49	54	61	71	82	136	169
Total addition to fund.....	428	256	127	397	471	384	465	88
Fund at end of year.....	1,871	2,127	2,254	2,651	3,123	3,506	5,737	6,871

<sup>1</sup> Does not include any adjustment for refunds to employees who receive more than \$3,000 in wages from covered employment in any one calendar year.

<sup>2</sup> Includes estimated 10 million payable in 1940 for lump-sum claims previously incurred.

NOTE.—The fund at the end of 1939 is estimated to be \$1,443,000,000. Benefit payments exceed net tax receipts in 1954.

It should be clearly understood that the estimates presented are subject to a margin of error. Changes in average wages, death rates, birth rates, the rate of retirement, the proportion of the aged in the total population, and shifts between insured and uninsured groups may result in substantial changes in these figures in the future. It is impossible, therefore, to predict accurately the future trends of all the factors influencing the long-run aspects of the old-age insurance program. The further one projects estimates of future income and benefit payments, the greater is the margin of error. Constant study and frequent revaluations are, therefore, essential for the long-run financing of our social insurance system. This is one of the reasons why the bill provides that the board of trustees make an annual report to Congress on the actuarial status of the system, and report to Congress whenever the trust fund is unduly small, or exceeds three times the highest annual expenditures expected in the next 5-fiscal-year period.

According to the best expert information available to the committee, the estimates presented here are reasonable approximations of the

income and outgo of the insurance plan for the next 15 years. The actual figures will no doubt vary somewhat from those shown in table 6. However, the benefit payments shown, although based upon an intermediate estimate as regards rate of retirement, probably represent maximum amounts payable under the provisions of the bill. A serious downswing in business conditions might increase the rate of old-age retirement and decrease the estimated amount of tax receipts, but such variations would probably not alter the fact that the contributions and interest will cover all benefit payments for the next 10 to 15 years. It is only when consideration is given to the income and outgo of the system for 40 to 45 years, or even more, that it becomes quite impossible to predict the future status of the system.

Table 6 shows that the annual contributions from workers and employers will probably be sufficient until 1955 to meet all the annual benefit payments under the revised plan. If the original actuarial assumptions of 1935 prove to be correct, it is possible that benefits for all time to come can be financed from the present schedule of taxes and the interest from the fund, even with the recommended postponement of the tax step-up until 1943. However, upon the basis of additional data developed since 1935, it would appear that the actuarial calculations of 1935 represent a minimum estimate of the future costs. Therefore, it is possible that the annual cost of the benefits may begin to exceed the annual tax collections about 1955 or even somewhat sooner.

Only after experience has been obtained in paying benefits for several years will we have a better picture of the probable future development of the system. Even then continual change will be necessary in the estimates due to the many variable factors which go into making such estimates.

In making the changes in the present plan the committee has kept constantly in mind the fact that, while disbursements for benefits are relatively small in the early years of the program, far larger total disbursements are inevitable in the future.

The plan provided for in the bill is designed to safeguard workers, employers, and the general public. In fact, your committee agrees with the House that the revised plan is a much safer one than the present plan. As has already been pointed out, while the annual costs under the revised plan are greater in the early years of operation, the future annual costs of the benefits when the system reaches maturity are materially lower than under the present law and the over-all average cost is kept about the same. Consequently, it is believed that there is not the same danger as exists in the present benefit schedule, the cost of which, while deceptively small in the early years, mounts very steeply as the years progress.

Unforeseen contingencies may, however, change the entire operation of the plan. It is important, therefore, that Congress be kept fully informed of the probable future obligations being incurred under the insurance plan as well as the public-assistance plans. Each generation may then meet the situation before it in such manner as it deems best.

If future annual pay-roll tax collections plus available interest are insufficient to meet future annual benefits it will be necessary, in order to pay the promised benefits, to increase the pay-roll tax or provide for the deficiency out of other general taxes, or do both. Broadening the coverage of the system to bring in those persons now excluded

will not only make the system more effective in providing protection but also strengthen its actuarial base by still further eliminating the possibility of unearned benefits to the worker who moves from uninsured to insured employment.

#### COVERAGE

Four years ago, when the old-age insurance program was being planned, it was expected that the act as passed would provide old-age security for about half of the gainful workers in the country. It was realized, of course, that many workers who might not be insured under the act at any one time would later obtain protection by shifting into insured occupations. It was generally supposed, however, that the group so shifting would be small compared with the great mass of workers, who, throughout their working life, would remain continuously either in the insured category or in the uninsured category.

Operation of the act shows that the extent of migration, temporary or permanent, from uninsured to insured employment is far greater than was assumed by the President's Committee on Economic Security in 1935. As a consequence of the migration, a much larger proportion of the total population of the United States will qualify under the contributory system for old-age benefits than had been expected.

The most important excluded groups are agricultural labor, domestic service, and certain nonprofit organizations; here your committee agrees with the House that it would be unwise to remove the exemptions from these three groups at the present time. The present bill does, however, extend old-age insurance coverage to some 1,100,000 more workers by removing the exemption of maritime employment, wages earned after 65, and certain Federal instrumentalities such as national banks and State banks which are members of the Federal Reserve System.

In order to eliminate the nuisance of inconsequential tax payments the bill excludes certain services performed for fraternal benefit societies and other nonprofit institutions exempt from income tax, and certain other groups. While the earnings of a substantial number of persons are excluded by this recommendation, the total amount of earnings involved is undoubtedly very small. No estimate is available of the number of persons or amount of earnings so excluded. The intent of the amendment is to exclude those persons and those organizations in which the employment is part-time or intermittent and the total amount of earnings is only nominal, and the payment of the tax is inconsequential and a nuisance. The benefit rights built up are also inconsequential. Many of those affected, such as students and the secretaries of lodges, will have other employment which will enable them to develop insurance benefits. This amendment, therefore, should simplify the administration for the worker, the employer, and the Government.

Nine other amendments to the coverage provisions are included in the bill. They are as follows:

1. *Agricultural labor.*—The present act excludes "agricultural labor" from coverage. The bill continues the exemption of agricultural labor and defines the term so as to clarify its meaning and to extend the meaning to certain services which are an integral part of farming activities. These provisions are explained in detail in a subsequent

part of this report, in connection with the definition of "agricultural labor" as defined in section 209 (1) of the bill.

2. *Exclusion of payments to employer welfare plans.*—The term "wages" is amended so as to exclude from tax payments made by an employer on account of a retirement, annuity, sickness, death or accident-disability plan, or for medical and hospitalization expenses in connection with sickness or accident disability. Dismissal wages which the employer is not legally required to make, and payments by an employer of the worker's Federal insurance contributions or a contribution required of the worker under a State unemployment-compensation law are also excluded from tax. This will save employers time and money but what is more important is that it will eliminate any reluctance on the part of the employer to establish such plans due to the additional tax cost.

3. *Fishing.*—The bill exempts services performed in fishing and certain related activities, and also an officer or member of the crew of any sail vessel or any other vessel of less than 400 tons.

4. *Newsboys.*—The bill exempts services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

5. *State employment.*—The exemption relating to employment by State instrumentalities is so defined as to apply only to an instrumentality wholly owned by the State or political subdivision, or tax exempt under the Constitution.

6. *Foreign governments.*—Provision is made for the exemption of foreign governments, and their instrumentalities under certain conditions, from the old-age-insurance taxes.

7. *Family employment.*—Service performed by an individual for his son, daughter, wife, or husband, and service by a child under 21 for his parent, is excluded so as to make the old-age-insurance coverage identical in this respect with unemployment compensation coverage.

8. *Included and excluded services.*—The law is changed with respect to services of an employee performing both included and excluded employment for the same employer so that the services which predominate in a pay period determine his status with that employer for that period.

9. *Multiple employment.*—The bill provides for a refund without interest to employees who earn wages in covered employment in excess of \$3,000 from more than one employer in any given calendar year. The claim for refund must be made to the Bureau of Internal Revenue of the Treasury Department within 2 years after the calendar year in which the wages are paid with respect to which the refund is claimed.

#### ADMINISTRATIVE CHANGES

1. A provision is included requiring employers to furnish employees a statement, which they may retain, showing the amount of taxes deducted from their wages under the old-age-insurance system.

2. Provision is made for making more equitable the recovery by the Federal Government of incorrect payments to individuals.

3. Provision is made respecting the practice of attorneys and agents before the Board.

4. Detailed provisions have been added relating to rules and regulations, hearings, and decisions with respect to insurance benefits, procedure for judicial review of the Board's decisions, and delegation of authority by the Board.

5. Provision is made for giving an opportunity for a hearing to a wage earner or interested individual with respect to any entry, omission, or revision of the Board's wage record within 4 years after the year any wages were paid or alleged to be paid, and as to the finality of the record.

6. Subchapter A, chapter 9, of the Internal Revenue Code (formerly title VIII of the Social Security Act) is given the short title "Federal Insurance Contributions Act."

### UNEMPLOYMENT COMPENSATION

The unemployment compensation and public assistance provisions of the Social Security Act constitute the most comprehensive attempt yet made to utilize a system of Federal-State cooperation for the solution of national problems. To promote State action in unemployment compensation, the Federal law establishes a uniform tax payable by employers regardless of whether the State in which they operate has an unemployment-compensation law; it then permits employers to offset (up to 90 percent of their Federal tax) contributions paid by them under a State unemployment-compensation law. The act also provides that the Federal Government shall make grants to the States to cover the entire necessary cost of proper administration of their unemployment-compensation laws.

The House bill relative to unemployment compensation deals with certain changes which in no way alter the fundamental Federal-State pattern now set forth in the Federal law. Under the present law the States are given very wide latitude in determining the way in which the State unemployment-compensation laws should operate. The Federal law merely prescribes a few simple standards. The States determine all such questions as the type of fund, the coverage of the law, the eligibility provisions, the waiting period, the amount and duration of benefits, the type of administrative agency. They also select the personnel and determine the compensation and tenure of such personnel.

Though the adjustment of Federal-State relations is at best a difficult and delicate task, particularly in the field of social legislation, experience so far in unemployment compensation indicates a large measure of success. The present provisions of the Federal law have proved completely effective in facilitating the enactment of State unemployment compensation laws. These laws and the character of their administration have on the whole been reasonably satisfactory. The inevitable administrative difficulties involved in the inauguration of any large-scale undertaking were accentuated by the fact that in 22 jurisdictions unemployment compensation first became payable in January 1938, at a time of unexpectedly heavy unemployment. It is, therefore, not surprising that a considerable backlog of undisposed claims accumulated during the early months of benefit payments. In spite of these difficulties the 31 jurisdictions that had begun paying benefits by the end of 1938 had paid out about \$400,000,000 in benefits to approximately 3,500,000 unemployed workers.

The most pressing problem in unemployment compensation during 1938 was the improvement and simplification of the State laws. Some 30 States have already passed extensive amendments at this year's legislative sessions and about 13 other States are still considering substantial changes—all designed to simplify and improve administration for the benefit of the employer, the worker, and the Government. Further encouragement is given by the fact that the latest figures for 1939 show that practically all States are now currently disposing of all claims received and have eliminated their backlog of undisposed claims accumulated during 1938.

Although all the States, the District of Columbia, Alaska, and Hawaii are receiving Federal grants for the administration of their unemployment compensation laws and although benefits are now being paid in 46 States (in addition to Alaska, Hawaii, and the District of Columbia) the unemployment compensation program is still in its infancy. Only 22 States, in addition to the District of Columbia, have had benefit-paying experience for more than 1 complete year. In one State benefits have been payable since July 1936, and 21 others in addition to the District of Columbia began benefit payments in January 1938. Six more States and the Territories of Alaska and Hawaii came in some time during 1938 so that a total of 31 jurisdictions were paying benefits by the end of 1938; another 16 joined the benefit-paying group in January 1939. Not until July of this year, when the last 2 States come in, will the Federal-State unemployment compensation program be fully functioning.

It is estimated that at the end of 1938 approximately 27,600,000 workers had earned wage credits in some prior period of employment covered by State laws, and that, at that time, 668,000 employers were subject to State laws. More than 38,000,000 benefit checks were issued during the year 1938, the average weekly check for total unemployment being approximately \$11. Data on the operation of the States paying benefits in 1938 are shown in table 7. Up to the end of April 1939, nearly \$540,000,000 had been paid out in unemployment compensation benefits by the 46 States, the District of Columbia, and the 2 Territories which had started to pay benefits before that date. (See table 8.) During the month of March 1939 alone, almost \$49,000,000 was paid out in benefits to more than 1,000,000 workers.

TABLE 7.—Number of unemployment compensation claims received and number and amount of benefit payments, 1938, by States

State	Number of initial claims received <sup>1</sup>	Number of continued claims received <sup>2</sup>	Number of checks issued <sup>3</sup>	Net amount of benefits paid <sup>4</sup>	Average check <sup>5</sup>	
					Total unemployment	Partial unemployment
Total for States reporting.....	9,484,604	45,511,335	33,075,791	\$393,785,709	\$10.93	\$5.39
Alabama.....	201,217	1,500,425	1,163,327	8,128,100	7.66	4.77
Arizona.....	30,637	221,622	161,623	1,902,407	11.79	(*)
California.....	693,720	4,042,705	2,485,911	23,716,354	9.72	5.24
Connecticut.....	254,735	1,900,743	1,216,091	12,254,387	10.59	3.97
District of Columbia.....	43,991	395,020	196,059	1,672,478	8.81	5.77
Idaho.....	18,965	77,710	34,148	366,362	10.73	6.13
Indiana.....	225,806	1,637,291	1,466,610	16,308,562	12.76	5.99
Iowa.....	82,355	448,412	280,239	2,585,648	9.30	5.69
Louisiana.....	134,365	769,543	554,212	4,007,049	8.41	6.28
Maine.....	126,102	818,375	566,558	4,535,455	8.93	5.44
Maryland.....	288,648	1,802,634	1,125,215	10,143,809	10.29	5.96
Massachusetts.....	626,965	2,512,694	2,563,871	27,098,765	10.62	(**)
Michigan.....	584,142	3,509,362	2,968,093	39,903,051	13.49	(**)
Minnesota.....	179,693	1,278,838	793,070	8,161,095	10.38	5.63
Mississippi.....	67,639	394,649	240,231	1,414,216	5.89	(**)
New Hampshire.....	117,042	559,135	324,246	2,731,870	9.23	4.99
New Mexico.....	4,394	1,017	1,017	9,210	9.20	5.77
New York.....	2,589,806	(**)	7,417,119	87,330,641	11.97	(**)
North Carolina.....	400,445	3,445,529	1,140,497	8,216,040	6.89	4.55
Oklahoma.....	22,325	21,953	6,739	71,231	10.57	** 9.00
Oregon.....	188,320	761,813	532,712	5,916,399	11.94	6.37
Pennsylvania.....	1,090,431	9,229,875	6,408,304	71,545,301	11.18	(**)
Rhode Island.....	192,032	1,681,151	1,069,584	9,293,286	9.63	5.17
South Carolina.....	34,410	203,546	112,966	595,147	6.71	3.93
Tennessee.....	194,246	1,906,484	867,015	6,144,192	7.27	4.16
Texas.....	316,759	1,803,291	1,051,219	9,343,884	9.22	5.57
Utah.....	58,633	302,289	219,195	2,461,300	11.37	7.56
Vermont.....	29,870	152,603	94,775	821,712	9.39	5.07
Virginia.....	148,933	835,777	805,297	5,635,688	8.08	4.02
West Virginia.....	187,947	2,017,094	1,256,577	12,065,373	10.83	5.94
Wisconsin.....	250,031	1,279,755	963,251	9,407,697	10.54	4.71

<sup>1</sup> An initial claim is a first claim for benefits in a period of unemployment. In some States, "additional" claims, which are the claims initiating the second and subsequent spells of unemployment within a benefit year, are not included.

<sup>2</sup> A continued claim is a claim reported weekly, following the filing of an initial claim, during a period of unemployment.

<sup>3</sup> Not adjusted for returned benefit checks.

<sup>4</sup> Adjusted for returned benefit checks.

<sup>5</sup> No adjustment made for payments for less than the full benefit rate, such as those representing adjustments, supplementary, and final payment checks.

<sup>6</sup> No benefit payments for partial unemployment.

<sup>7</sup> January not included.

<sup>8</sup> May and June not included.

<sup>9</sup> January, February, and March not included.

<sup>10</sup> No provision in State law for payments for partial unemployment.

<sup>11</sup> Payments for partial unemployment not effective until January 1939.

<sup>12</sup> Data not reported.

<sup>13</sup> Only 2 payments made in December 1938, when benefits were first payable.

TABLE 8.—Unemployment compensation benefit payments,<sup>1</sup> January 1938 to April 1939, by States

State	Date benefits first payable	Cumulative net benefit payments through April 1939	Net benefit payments, 1938	Net benefit payments, January to April 1939
Total, all States.....		\$539,955,206	\$393,785,709	\$146,169,497
Alabama.....	January 1938.....	9,572,935	8,128,100	1,444,835
Alaska.....	January 1939.....	119,875		119,875
Arizona.....	January 1938.....	2,473,670	1,902,407	571,263
Arkansas.....	January 1939.....	590,752		590,752
California.....	January 1938.....	36,926,897	23,715,354	13,211,543
Colorado.....	January 1939.....	1,270,341		1,270,341
Connecticut.....	January 1938.....	14,369,338	12,254,387	2,114,951
Delaware.....	January 1939.....	279,803		279,803
District of Columbia.....	January 1938.....	2,311,024	1,672,478	638,546
Florida.....	January 1939.....	381,760		381,760
Georgia.....	do.....	844,956		844,956
Hawaii.....	do.....	33,526		33,526
Idaho.....	September 1938.....	1,843,580	366,362	1,477,218
Illinois.....	July 1939.....			
Indiana.....	April 1938.....	21,003,675	16,308,562	4,695,113
Iowa.....	July 1938.....	5,454,825	2,585,648	2,869,177
Kansas.....	January 1939.....	1,085,589		1,085,589
Kentucky.....	do.....	1,645,400		1,645,400
Louisiana.....	January 1938.....	6,334,070	4,007,049	2,327,021
Maine.....	do.....	5,888,341	4,535,455	1,352,886
Maryland.....	do.....	12,389,679	10,143,809	2,245,870
Massachusetts.....	do.....	33,640,448	27,098,765	6,541,683
Michigan.....	July 1938.....	51,015,048	39,903,051	11,111,997
Minnesota.....	January 1938.....	12,217,028	8,161,095	4,055,933
Mississippi.....	April 1938.....	2,075,548	1,414,216	664,332
Missouri.....	January 1939.....	1,616,578		1,616,578
Montana.....	July 1939.....			
Nebraska.....	January 1939.....	659,768		659,768
Nevada.....	do.....	243,982		243,982
New Hampshire.....	January 1938.....	3,251,038	2,731,870	519,168
New Jersey.....	January 1939.....	5,900,041		5,900,041
New Mexico.....	December 1938.....	463,290	9,210	454,080
New York.....	January 1938.....	114,548,704	87,330,641	27,218,063
North Carolina.....	do.....	10,056,978	8,216,040	1,840,938
North Dakota.....	January 1939.....	251,497		251,497
Ohio.....	do.....	6,783,475		6,783,475
Oklahoma.....	December 1938.....	2,109,334	71,231	2,038,103
Oregon.....	January 1938.....	8,028,725	5,916,399	2,110,326
Pennsylvania.....	do.....	89,759,617	71,545,301	18,214,316
Rhode Island.....	do.....	10,896,637	9,293,286	1,603,351
South Carolina.....	July 1938.....	1,389,380	595,147	793,233
South Dakota.....	January 1939.....	216,894		216,894
Tennessee.....	January 1938.....	7,651,722	6,144,192	1,507,530
Texas.....	do.....	13,356,029	9,343,884	4,012,145
Utah.....	do.....	3,185,815	2,461,300	724,515
Vermont.....	do.....	1,086,207	821,712	264,495
Virginia.....	do.....	7,276,865	5,635,688	1,641,177
Washington.....	January 1939.....	2,622,418		2,622,418
West Virginia.....	January 1938.....	13,446,408	12,065,373	1,381,035
Wisconsin.....	July 1936.....	10,868,157	9,407,697	1,460,460
Wyoming.....	January 1939.....	614,589		614,589

<sup>1</sup> Adjusted for returned and voided benefit checks.<sup>2</sup> Does not include \$2,146,827 paid prior to January 1938.

As of April 30, 1939, a total of \$1,270,370,000 was available for benefits in all the States (see table 9). This sum represents the total of moneys deposited in the unemployment trust fund, held by the States pending deposit, and withdrawn by the States pending benefit payment. Of this amount, \$1,118,120,000 was available for benefits in those jurisdictions actually paying benefits. The reserves at this time would be about \$225,000,000 less if all States had started the payment of benefits in January 1938. Since over half the States did not begin payment until later, their reserves were built up at a faster rate than originally anticipated. This is evident from the fact that in the States which did pay benefits in 1938, about 82 cents were paid out in benefits for each dollar collected in contributions for the same

year. Benefit payments would have been increased further, and the available reserves reduced to the same extent, if the system had been in operation for several years so that workers could have built up larger wage records.

TABLE 9.—Funds available for unemployment compensation benefits as of Apr. 30, 1939

State:	Funds available as of Apr. 30, 1939
Total, all States.....	\$1, 270, 371, 000
Alabama.....	8, 923, 000
Alaska.....	917, 000
Arizona.....	2, 298, 000
Arkansas.....	6, 042, 000
California.....	121, 480, 000
Colorado.....	9, 771, 000
Connecticut.....	20, 819, 000
Delaware.....	4, 510, 000
District of Columbia.....	12, 674, 000
Florida.....	12, 135, 000
Georgia.....	17, 729, 000
Hawaii.....	3, 917, 000
Idaho.....	2, 466, 000
Illinois.....	146, 112, 000
Indiana.....	27, 110, 000
Iowa.....	11, 259, 000
Kansas.....	11, 645, 000
Kentucky.....	21, 297, 000
Louisiana.....	13, 986, 000
Maine.....	2, 884, 000
Maryland.....	12, 662, 000
Massachusetts.....	59, 282, 000
Michigan.....	47, 509, 000
Minnesota.....	16, 667, 000
Mississippi.....	3, 598, 000
Missouri.....	40, 390, 000
Montana.....	6, 138, 000
Nebraska.....	8, 297, 000
Nevada.....	1, 670, 000
New Hampshire.....	4, 888, 000
New Jersey.....	77, 276, 000
New Mexico.....	2, 624, 000
New York.....	154, 082, 000
North Carolina.....	13, 174, 000
North Dakota.....	2, 001, 000
Ohio.....	109, 814, 000
Oklahoma.....	12, 729, 000
Oregon.....	6, 177, 000
Pennsylvania.....	76, 429, 000
Rhode Island.....	7, 181, 000
South Carolina.....	8, 686, 000
South Dakota.....	2, 269, 000
Tennessee.....	10, 449, 000
Texas.....	36, 651, 000
Utah.....	2, 841, 000
Vermont.....	2, 281, 000
Virginia.....	13, 325, 000
Washington.....	19, 726, 000
West Virginia.....	9, 271, 000
Wisconsin.....	41, 789, 000
Wyoming.....	2, 520, 000

<sup>1</sup> Benefits become payable July 1939.

<sup>2</sup> As of end of December 1937. Benefits first payable July 1938.

However, while the reserve funds of most States are in a stronger position at the present time than when benefit payments were first begun, this is not true for all States. There were 13 States in which benefit payments during 1938 were equal to or in excess of the amounts collected in contributions from the date benefits were first payable. In one State the benefits paid out were nearly three times the contributions collected during the period benefits were paid.

The year 1938 was a year of substantial unemployment and most States are now rebuilding their reserve funds for future benefit payments. Yet, the uneven character of unemployment is shown by the fact that three States paid out benefits during the first 3 months of 1939 in excess of the contributions collected.

Economic resources and unemployment are not of equal magnitude in all the States. Different problems and varying standards are, therefore, to be expected in the various State unemployment compensation systems. While benefit standards in all States are still not fully adequate to meet the problem of unemployment, those in some States are more inadequate than in others. At the same time, some States have accumulated considerable reserves and there is demand from these States for a reduction in the unemployment-compensation contributions. Caution must be exercised, however, in attempting to remedy these inadequacies and inequalities before sufficient experience is acquired. The Federal-State program of unemployment compensation is the only existing permanent Federal program aimed at meeting part of the unemployment problem. Consequently, it must not be viewed as temporary legislation. Proposed changes in the unemployment-compensation program must be tested in terms of both present need and future justification.

Your committee have eliminated from the bill certain amendments to the unemployment-insurance provisions which were contained in the House bill. In general, the two amendments which have been deleted by your committee are as follows:

1. The provision requiring that States shall collect an average of 2.7 percent of pay rolls; and
2. The State-wide reduction plan allowing States to reduce contributions if they meet certain minimum reserve and benefit standards.

Your committee have not included these two provisions in the bill after hearing from the administrators of several State unemployment-compensation agencies who opposed these two provisions in the House bill. Your committee feel that there has not been enough time to develop sufficient experience in the field of unemployment compensation upon which to base an intelligent decision with respect to a reduction in the contribution rates or the insertion of minimum benefit standards at this particular time.

In view of this fact your committee feel that the wisest policy is to continue the present provisions with respect to unemployment insurance until such time as a thorough study of the benefit experience of the various States will yield practical results.

The bill contains, however, certain amendments designed to simplify administration for employers and the Government and to clarify certain technical aspects of the present act.

Employers will save an aggregate amount of about 15 million dollars by virtue of the provision granting relief to those employers who paid their State unemployment-compensation contributions for

the years 1936, 1937, and 1938 too late to qualify for the Federal credit. Employers who pay their delinquent taxes for these years before the sixtieth day after the enactment of these amendments would receive full credit against their Federal taxes for 1936, 1937, and 1938. Further the provisions as to loss of credit on account of future delinquency would be relaxed by (1) increasing from 60 to 90 days the maximum period for which the Commissioner of Internal Revenue is permitted to grant an extension for the filing of Federal tax returns, and (2) by providing that employers who pay their taxes after January 31 but before July 1 next following the close of the taxable year would lose only 10 percent of their allowable credit.

Another of the amendments would result in a saving to employers as well as in considerable simplification of reporting procedures. This is the amendment to limit unemployment-compensation taxes to the first \$3,000 of annual wages. Such a limitation already exists in the case of old-age insurance and there are distinct advantages to providing a uniform tax base for both programs. It is estimated that this new limitation would result in a saving to employers of about \$65,000,000 a year.

Again in the interests of simplification and uniform reporting, the present bill proposes to change the tax base for unemployment compensation from "wages payable" to the "wages paid" definition used in old-age insurance.

Many of the same changes in coverage are provided in this bill with respect to unemployment compensation as have already been discussed under old-age insurance. The cases involving taxes of small consequence, which would be exempt under old-age insurance, would also be exempt from the Federal Unemployment Tax Act. The agricultural-labor exemption is defined and extended as in old-age insurance. The bill proposes to extend coverage to one of the groups now excluded, namely, employees of certain Federal instrumentalities such as national banks, and State bank members of the Federal Reserve System. This amendment would bring about 200,000 additional persons under the unemployment-compensation program, provided the States amend their laws accordingly.

Provision is made in section 902 (h) of the bill granting relief to taxpayers and States in those cases in which the highest court of a State has held contributions paid under the State unemployment compensation law for 1936 or 1937 not to have been validly required under such law. This provision is to take care of the situation in North Carolina where the State supreme court recently held that the provisions of the State law requiring contributions for 1936 were invalid because they were retroactive. The effect of the proposed amendment is to enable North Carolina to keep about \$3,000,000 in its reserve fund for use in the payment of unemployment compensation benefits.

Other changes affecting unemployment compensation are:

1. Authorization is given to the States to make their unemployment-compensation laws applicable to services performed on land or premises owned, held, or possessed by the United States Government, such as services performed as employees of hotels in national parks. Congress has already enacted a statute giving the States authority to apply their workmen's compensation laws to such employees.

2. The language excluding State instrumentalities is defined as in old-age insurance so that the exemption applies only to an instru-

mentality wholly owned by the State or political subdivision, as well as those exempt from tax under the Constitution.

3. As in old-age insurance, the definition of "wages" is amended so as to exclude from tax the payments made by an employer on account of a retirement annuity, sickness, death, or accident-disability plan, or for medical or hospitalization expense in connection with sickness or accident disability. Dismissal wages, which the employer is not legally required to pay, and payments by an employer of the worker's Federal insurance contributions, or a contribution required of the worker under a State unemployment-compensation law are also excluded from tax.

4. Provision is made, as in old-age insurance, for the exemption of foreign governments and their instrumentalities from the unemployment-compensation tax.

5. Provision is made for the exemption of services performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such services performed by such individual for such person are performed for remuneration solely by way of commission.

6. Provision is made for the exemption of services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

7. The law is changed with respect to services of an employee performing both included and excluded employment for the same employer so that the services which predominate in a pay period determine his status with that employer for the period. The same provision is made in connection with old-age insurance.

8. The "merit rating" or "individual employer experience rating" provisions are clarified.

9. A provision has been inserted requiring the State laws to provide for the expenditure of Federal grants for the administration of their unemployment compensation laws in accordance with the Federal act and requiring the replacement of any moneys lost or expended for other purposes.

10. Extension of time is given for the allowance of credit against the Federal tax in cases where the employer has paid his State tax on time but has paid it to the wrong State.

11. The time is also extended in those cases where taxpayer's assets are in the custody or control of a receiver, trustee, or other fiduciary under the control of a court.

12. The "tax on employers of eight or more" now contained in subchapter C of chapter 9 of the Internal Revenue Code (formerly title IX of the Social Security Act) is given the short title "Federal Unemployment Tax Act."

#### PUBLIC ASSISTANCE

The bill contains several amendments designed to liberalize and clarify existing Federal provisions concerning public assistance and to simplify the administration of the State plans. No fundamental change in Federal-State relations is proposed.

*Increase in grants for old-age assistance.*—Under the present law the Federal Government reimburses the States for 50 percent of their assistance payments to the needy aged up to a maximum of \$30 a

month for each person aided. This means that the Federal Government does not pay more than \$15 toward the assistance provided any aged person in any month. The bill increases the \$30 limit to \$40 so that the maximum Federal grant per aged person is increased from \$15 to \$20 per month. This amendment will allow the States to liberalize their grants to needy aged persons if they so desire. The cost of this change to the Federal Government will depend upon the extent to which the States take advantage of the new proposal.

*Liberalization of aid to dependent children.*—At the present time the Federal Government contributes only one-third of the payments made by the States to dependent children as against one-half in the case of the aged and the blind. As a result, there are still eight States in addition to Alaska which are not participating in this program, and in many of the States that are participating, the level of assistance for dependent children is lower than that for the aged and the blind. The eight States are Connecticut, Illinois, Iowa, Kentucky, Mississippi, Nevada, South Dakota, and Texas. The average amount of aid per dependent child is about \$13.50 per month compared with \$19.50 for old-age assistance and \$23.25 for blind persons.

The rapid expansion of the program for aid to dependent children in the country as a whole since 1935 stands in marked contrast to the relatively stable picture of mothers' aid in the preceding 4-year period from 1932 through 1935. The extension of the program during the last 3 years is due to Federal contributions which encouraged the matching of State and local funds. Furthermore, many States have liberalized their laws by adopting a broader definition of the term "dependent child," by liberalizing the amounts that may be granted to needed cases, and by relaxing requirements relating to residence. At the close of 1935, aid was received by 117,000 families in behalf of 286,000 children. In May 1939 payment for aid to dependent children was being made to about 695,000 children in 287,000 families under plans approved by the Social Security Board. During the calendar year 1938 nearly \$95,000,000 was spent by the Federal, State, and local governments for aid to dependent children under plans approved by the Board. The number of old people now being aided through Federal grants is nearly three times as large as the number of dependent children being aided. But the actual number of dependent children in need of assistance is probably fully as large as the number of needy aged now receiving assistance.

The bill makes three changes, effective January 1, 1940, designed to expand aid to dependent children. They are as follows:

1. The Federal matching is increased from one-third to one-half. This will enable the States to give aid to many additional needy children. There are at the present time about 165,000 children in 71,000 families who have filed applications in the States for aid and many more who will be eligible for aid when these additional funds become available.

2. The age limit for Federal grants is raised from 16 to 18 if the State agency finds that the child is regularly attending school. This will enable most children to finish high school. Six States already provide aid to children up to the age of 18 and six additional States have the necessary legislation to take advantage of this amendment immediately. It is estimated that about 100,000 additional children may obtain aid by virtue of this change, provided all States amend their laws accordingly.

It is estimated that the present State programs, when amended in accordance with the provisions of this bill will enable the States to provide monthly benefits for at least 1,000,000 dependent children or over 300,000 more children than are being aided at the present time.

3. The present Federal matching limit of \$18 per month for the first child and \$12 per month for each child thereafter is liberalized so that the Federal Government will pay one-half on all up to an average of \$18 per child per month for the State as a whole. The change suggested by your committee of matching the expenditures for aid to dependent children on the basis of an average of \$18 per child per month instead of on the basis of a maximum of \$18 if there is only one dependent child in a home and \$12 for each additional child has the effect of enabling the States to grant more adequate assistance to small families. The typical situation is that a dependent widow as well as a child must be supported by the grant that is made for the care of the child. The result of the present maximum limitations has been that far less adequate assistance has been granted to these small families.

The additional cost to the Federal Government of these three amendments is difficult to estimate due to the fact that the amendments are effective only at such time and to the extent that the States match the Federal funds. The additional costs of these amendments for assistance to children is estimated at about \$30,000,000 to \$60,000,000 per year. Some of the additional cost will be offset in future years because of the widows' and orphans' benefits provided under the insurance plan. In any case, our obligation to provide care for the children of today who will be the parents of the next generation is one which must be met. The amendments recommended to both the insurance and the assistance titles are part of a common program to promote the security of the family and the home.

*Administrative amendments.*—The bill provides that after January 1, 1940, all approved plans for and to the needy aged, blind, and dependent children must include methods relating to the establishment and maintenance of personnel standards on a merit basis. Identical provisions were also inserted in title V of the act with respect to the maternal and child-health provisions and services for crippled children.

The bill alters the method by which the Federal Government shall settle with the States whose laws provide for a recovery from recipients or the estates of recipients of old-age assistance. At present these States must actually draw a check to reimburse the Federal Government for its share of any amount so recovered. The new plan provides adjustment in the amount of the Federal grant, on account of the Federal pro rata share of any amount so recovered by the State. Any amount which the State spends on funeral expenses (in the case of aged or blind recipients) is considered in making the adjustment. The new plan of Federal-State settlement is applicable in all three assistance programs, whereas existing law affects only old-age assistance.

The purpose of all three assistance programs is further clarified by inserting the word "needy" in the definitions of those who may receive old-age assistance, aid to the blind, or aid to dependent chil-

dren. A closely related clarifying amendment is applied to all three assistance titles and provides that the States, in determining need, must consider any other income and resources of individuals claiming assistance.

The only other important amendment affecting the public-assistance titles is one which requires that the States, in order to receive Federal grants, must provide safeguards to restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. All three assistance titles would be thus amended, the obvious purpose being to insure efficient administration and to protect recipients from humiliation and exploitation.

#### MATERNAL AND CHILD HEALTH SERVICES AND SERVICES FOR CRIPPLED CHILDREN

It has been fully demonstrated in testimony presented to this committee that there is urgent need for increased authorizations for maternal and child health and crippled children's services under title V, parts 1 and 2, of the Social Security Act. The chairman of the subcommittee of the Committee on Education and Labor, which has been holding hearings on the Wagner national health bill (S. 1620), stated to this committee that testimony presented at the hearings had convinced him of the need for immediate expansion of these programs.

In her testimony before this committee, Dr. Martha M. Eliot, Assistant Chief of the Children's Bureau, stated that of the 32 State plans for maternal and child health services for the fiscal year 1940 already reviewed, 26 showed immediate need for carrying forward programs already initiated in a total sum of over \$7,000,000. The estimate is based largely on a known need to provide additional medical and nursing services in maternity and child health clinics and in the homes.

With reference to the crippled children's program she stated that over 14,500 children at this very time are on the waiting lists of the official State agencies, awaiting hospital care and that nearly 13,000 of these are now awaiting care because of lack of funds. To provide care for children now on the waiting lists would cost at least \$3,000,000 in addition to present resources. The following table 10 shows the distribution by States of these children awaiting care.

TABLE 10.—Number of crippled children on waiting lists of State agencies as of May 16, 1939

State	Due to lack of funds	Due to lack of beds	Due to other reasons	Total
Alabama.....	3,189			3,189
Alaska.....	55			55
Arizona.....	79			79
Arkansas.....	255			255
California.....	199			199
Colorado.....	60			60
Connecticut.....			80	80
Delaware.....		2		2
District of Columbia.....		17		17
Florida.....	315			315
Georgia.....	625	75		700
Hawaii.....			18	18
Idaho.....	91			91
Illinois.....	300			300
Indiana.....		206		206
Iowa.....	1,200			1,200
Kansas.....			100	100
Kentucky.....	2,000			2,000
Louisiana.....		200		200
Maine.....		2		2
Maryland.....		29		29
Massachusetts.....		8		8
Michigan.....	0			0
Minnesota.....	23	49		72
Mississippi.....	339			339
Missouri.....	200			200
Montana.....			64	64
Nebraska.....	25	35		60
Nevada.....	24			24
New Hampshire.....	20			20
New Jersey.....	0			0
New Mexico.....		230		230
New York.....	2			2
North Carolina.....	397			397
North Dakota.....	0			0
Ohio.....	750			750
Oklahoma.....		200		200
Oregon.....			65	65
Pennsylvania.....	300	100		400
Rhode Island.....	14			14
South Carolina.....	259			259
South Dakota.....	160			160
Tennessee.....	201	24		225
Texas.....	822			822
Utah.....	325			325
Vermont.....		76		76
Virginia.....	130			130
Washington.....	65			65
West Virginia.....			25	25
Wisconsin.....	494			494
Wyoming.....			50	50
Total.....	12,918	1,253	402	14,573

In addition to children now on the waiting lists there are large numbers of children crippled from heart disease who should be brought within the program. The cost of caring for these children in hospitals or convalescent homes is great and the period of treatment is prolonged. It is estimated on the other hand that if proper and early care is given to these children probably 60 percent can be restored to normal existence.

The sums of money included in the amendment to title V, parts 1 and 2, would provide for expansion of the present programs on the basis of urgent immediate need and for demonstration of methods of providing medical care in maternity and childhood. Full provisions for meeting the needs of mothers and children for health and medical services would still await action on a comprehensive national health program.

The increase in the authorization for maternity and child-health services under title V, part 1, would provide \$1,020,000 to be added to the sum which must be matched by the States (sec. 502 (a)), and \$1,000,000 to the fund allotted according to the financial need of each State for assistance in carrying out its State plan (502 (b)), for which there are no matching requirements.

The increase in authorization under title V, part 2, for services to crippled children is in the amount of \$1,020,000 to be allotted to the States according to the financial need of each State for assistance in carrying out its State plan, a provision comparable with that for maternity and child-health services in section 502(b), for which there are no matching requirements. It was shown in testimony before the committee that prompt, effective service in meeting emergency conditions such as infantile-paralysis epidemics could not be given unless part of the appropriation was available for grants to the States on the basis of need without matching requirements.

Tables 11 and 12 showing a comparison of the distribution of funds for maternal and child health services and services for crippled children for the fiscal year 1939 and tentative distributions under proposed amendments to title V, parts 1 and 2, of the Social Security Act are as follows:

TABLE 11.—Distribution of funds for maternal and child health services for fiscal year 1939 and tentative distribution under proposed amendments to title V, pt. 1, of the Social Security Act

State or Territory	Present (fiscal year 1939)			Proposed (tentative distribution)		
	Total, fund A and fund B	Fund A <sup>1</sup>	Fund B <sup>2</sup>	Total, fund A and fund B	Fund A <sup>3</sup>	Fund B <sup>4</sup>
Total.....	\$3 800,000.00	\$2,820,000.00	\$980,000.00	\$5,820,000.00	\$3,820,000.00	\$1,980,000.00
Alabama.....	105,854.92	70,206.53	35,648.39	149,942.44	97,946.14	51,996.30
Alaska.....	34,789.28	21,074.85	13,714.43	47,616.52	21,628.22	25,988.30
Arizona.....	56,752.70	27,971.61	28,781.09	71,365.45	33,276.31	38,089.14
Arkansas.....	68,468.08	47,994.59	20,473.49	102,624.22	64,578.24	38,045.98
California.....	103,295.14	90,572.78	12,722.36	170,296.57	139,213.53	31,083.04
Colorado.....	54,855.72	35,265.91	19,589.81	80,026.81	44,809.26	35,217.55
Connecticut.....	48,734.96	38,563.96	10,171.00	58,282.80	48,812.14	9,470.66
Delaware.....	30,764.33	23,275.50	7,488.83	36,190.32	25,509.67	10,680.65
District of Columbia.....	54,014.06	29,774.72	24,239.36	51,399.29	35,615.54	15,783.75
Florida.....	76,333.29	43,465.52	32,867.77	95,989.72	57,330.80	38,659.42
Georgia.....	126,365.10	71,494.36	54,870.74	164,725.64	101,045.72	63,679.92
Hawaii.....	35,890.41	27,680.13	8,210.28	47,451.75	30,856.10	16,595.65
Idaho.....	43,480.92	28,538.68	14,942.24	58,020.86	33,118.17	24,902.69
Illinois.....	123,967.51	113,677.51	10,290.00	175,317.70	165,847.13	9,470.66
Indiana.....	72,059.42	55,127.10	6,932.32	104,789.78	90,957.54	13,832.24
Iowa.....	63,900.42	55,673.91	8,226.51	92,640.39	73,268.46	18,771.93
Kansas.....	68,818.89	45,053.16	23,765.73	78,816.39	57,100.06	21,716.33
Kentucky.....	101,154.46	66,583.60	34,570.86	119,747.36	91,053.70	28,693.66
Louisiana.....	98,585.36	56,603.43	41,981.93	129,948.34	78,203.74	51,744.60
Maine.....	45,690.20	32,779.64	12,910.56	69,312.17	39,288.22	30,023.95
Maryland.....	62,163.51	42,205.27	19,960.24	72,238.69	55,093.55	17,145.14
Massachusetts.....	78,650.91	71,532.78	7,118.13	113,497.47	96,104.29	15,393.18
Michigan.....	104,559.53	93,850.78	10,708.75	160,063.40	135,809.06	14,254.34
Minnesota.....	69,467.41	59,733.61	9,733.80	99,087.07	80,771.96	18,315.11

<sup>1</sup> Uniform apportionment of \$20,000 to each State and apportionment of \$1,800,000 on basis of ratio of live births in State to total live births.

<sup>2</sup> Allotment according to financial need for assistance in carrying out State plan, after number of live births is taken into consideration.

<sup>3</sup> Uniform apportionment of \$20,000 to each State and apportionment of \$2,800,000 on basis of ratio of live births in State to total live births.

<sup>4</sup> Subject to modification on basis of States' needs for financial assistance as shown in State plans to be submitted. Conditional distribution of \$1,485,000 made as follows: \$482,624.73, uniform grant; \$334,125.27, sparsity of population; \$334,125, excess infant mortality; \$334,125, excess maternal mortality.

<sup>5</sup> Including \$20,000 uniform allotment to Puerto Rico under sec. 502 (a). Distribution of amounts to States on basis of number of live births is tentative since it does not include proportionate amount for Puerto Rico.

TABLE 11.—Distribution of funds for maternal and child health services for fiscal year 1939 and tentative distribution under proposed amendments to title V, pt. 1, of the Social Security Act—Continued.

State or Territory	Present (fiscal year 1939)			Proposed (tentative distribution)		
	Total, fund A and fund B	Fund A	Fund B	Total, fund A and fund B	Fund A	Fund B
Mississippi.....	\$96,010.50	\$61,295.37	\$34,715.13	\$137,164.27	\$85,907.13	\$51,257.14
Missouri.....	84,665.42	66,698.86	17,966.56	125,731.00	92,050.64	33,680.36
Montana.....	51,107.08	28,685.67	22,421.41	58,355.03	32,965.09	25,389.94
Nebraska.....	51,906.95	39,875.17	12,031.78	69,993.34	48,174.52	21,818.82
Nevada.....	50,551.60	21,185.10	29,366.50	48,720.00	22,203.85	26,516.15
New Hampshire.....	36,431.20	26,413.20	10,018.00	44,505.32	29,656.78	14,848.54
New Jersey.....	78,429.23	64,959.23	13,470.00	98,555.82	89,085.16	9,470.66
New Mexico.....	72,351.10	30,779.43	41,571.67	79,669.56	37,505.66	42,163.90
New York.....	172,391.00	172,391.00	-----	267,328.58	254,684.80	12,643.78
North Carolina.....	114,829.18	83,624.24	31,204.94	172,198.65	120,046.77	52,151.88
North Dakota.....	43,827.63	31,333.97	12,493.66	61,838.87	35,987.50	25,851.37
Ohio.....	116,858.62	106,803.71	10,249.91	183,817.46	156,098.00	27,719.46
Oklahoma.....	89,873.93	54,922.25	34,051.68	104,845.26	72,447.39	32,397.87
Oregon.....	52,269.98	31,671.38	20,598.60	62,644.51	39,555.17	23,089.34
Pennsylvania.....	153,118.82	153,118.82	-----	267,415.14	224,050.87	43,364.27
Rhode Island.....	33,506.94	28,506.94	5,000.00	42,903.99	32,954.96	9,949.03
South Carolina.....	100,143.34	52,815.15	47,328.19	125,527.00	71,418.84	54,108.16
South Dakota.....	49,091.89	30,756.04	18,335.85	59,528.26	35,065.20	24,463.06
Tennessee.....	84,975.63	62,234.93	22,740.60	126,792.17	85,708.50	41,083.67
Texas.....	146,981.49	113,205.64	33,775.85	267,029.62	166,827.60	100,202.02
Utah.....	43,700.98	30,482.10	13,218.88	59,983.74	36,058.34	23,925.40
Vermont.....	38,842.65	25,385.96	13,456.69	46,802.97	28,003.24	18,799.73
Virginia.....	94,599.73	62,799.50	31,800.23	128,071.79	85,723.70	42,348.09
Washington.....	51,205.94	39,522.73	11,683.21	73,997.07	51,673.88	22,323.19
West Virginia.....	68,698.84	54,118.84	14,480.00	100,221.28	73,439.23	26,782.05
Wisconsin.....	71,142.36	63,940.32	7,202.04	101,323.93	87,739.06	13,584.87
Wyoming.....	23,969.52	23,969.52	-----	51,246.13	25,731.07	25,515.06
Reserved for allotment for special needs.....	-----	-----	-----	495,000.00	-----	495,000.00

TABLE 12.—Distribution of funds for services for crippled children for fiscal year 1939 and tentative distribution under proposed amendments to title V, pt. 2, of the Social Security Act

State or Territory	Total, present (fiscal year 1939) <sup>1</sup>	Proposed (tentative distribution)		
		Total	Fund A <sup>2</sup>	Fund B <sup>3,4</sup>
Total.....	\$2,850,000.00	\$3,870,000.00	\$2,850,000.00	\$1,000,000.00
Alabama.....	69,313.49	84,878.26	69,313.49	17,112.47
Alaska.....	20,663.23	20,941.51	20,663.23	388.36
Arizona.....	35,424.16	37,720.27	35,424.16	2,728.50
Arkansas.....	46,331.51	55,960.11	45,331.51	12,080.48
California.....	107,724.93	129,466.17	107,724.93	20,027.46
Colorado.....	42,715.25	47,659.48	42,715.25	6,323.30
Connecticut.....	37,753.35	45,202.31	37,753.35	6,070.52
Delaware.....	22,560.67	23,635.08	22,560.67	1,052.27
District of Columbia.....	29,156.05	30,899.85	29,156.05	1,755.65
Florida.....	57,357.14	64,576.94	57,357.14	8,079.88

<sup>1</sup> Uniform apportionment of \$20,000 to each State and apportionment of \$1,830,000 according to need of each State after taking into consideration number of crippled children in need of services and cost of furnishing services. Distribution made as follows: \$1,430,000 on basis of ratio of State population under 21 years to total population under 21 years; \$400,000 on basis of need as shown in State plans after taking into consideration number of crippled children in need of services and cost of furnishing such services.

<sup>2</sup> Uniform apportionment of \$20,000 to each State and apportionment of \$1,930,000 according to need of each State after taking into consideration number of crippled children in need of services and cost of furnishing services. Based on 1939 distribution.

<sup>3</sup> Subject to modification on basis of States' needs for financial assistance as shown in State plans to be submitted.

<sup>4</sup> Amount for distribution according to financial need of each State for assistance in carrying out State plan after taking into consideration number of crippled children in need of services and cost of furnishing services. Includes children crippled from orthopedic conditions, heart disease, and certain other crippling conditions.

<sup>5</sup> Including \$20,000 uniform allotment to Puerto Rico under sec. 512 (a). Distribution of amounts to States on basis of number of crippled children in need of care and cost of care is tentative since it does not include proportionate amount for Puerto Rico.

TABLE 12.—Distribution of funds for services for crippled children for fiscal year 1939 and tentative distribution under proposed amendments to title V, pt. 2, of the Social Security Act—Continued

State or Territory	Total, present (fiscal year 1939)	Proposed (tentative distribution)		
		Total	Fund A	Fund B
Georgia.....	\$80,299.95	\$77,209.02	\$80,299.95	\$18,691.82
Hawaii.....	25,017.24	27,122.38	25,017.24	2,987.86
Idaho.....	25,666.88	28,044.59	25,666.88	3,286.61
Illinois.....	99,714.05	133,160.50	99,714.05	30,751.81
Indiana.....	55,313.54	70,130.41	55,313.54	13,684.66
Iowa.....	57,576.94	69,147.68	57,576.94	12,074.87
Kansas.....	41,459.22	50,403.09	41,459.22	10,386.04
Kentucky.....	85,000.00	99,297.24	85,000.00	15,259.24
Louisiana.....	47,632.12	59,226.02	47,632.12	11,872.23
Maine.....	32,881.15	36,602.48	32,881.15	4,210.72
Maryland.....	54,138.56	61,749.15	54,138.56	6,504.59
Massachusetts.....	74,673.48	93,424.69	74,673.48	15,763.23
Michigan.....	100,000.00	122,821.23	100,000.00	19,799.02
Minnesota.....	69,325.05	81,629.27	69,325.05	13,078.67
Mississippi.....	47,961.78	59,693.99	47,961.78	13,795.55
Missouri.....	58,864.27	75,170.96	58,864.27	16,952.58
Montana.....	38,884.22	41,510.58	38,884.22	3,632.93
Nebraska.....	51,163.92	57,945.98	51,163.92	8,128.37
Nevada.....	20,865.04	21,227.99	20,865.04	452.17
New Hampshire.....	24,894.46	26,948.08	24,894.46	1,995.40
New Jersey.....	72,876.74	91,216.34	72,876.74	16,450.58
New Mexico.....	30,000.36	32,475.20	30,000.36	3,041.27
New York.....	147,056.60	200,366.92	147,056.60	47,267.14
North Carolina.....	96,537.05	116,063.08	96,537.05	20,740.45
North Dakota.....	29,222.60	33,092.22	29,222.60	4,780.81
Ohio.....	115,869.80	146,024.96	115,869.80	26,372.23
Oklahoma.....	77,543.52	90,842.41	77,543.52	14,611.90
Oregon.....	29,501.22	33,487.75	29,501.22	4,882.01
Pennsylvania.....	133,604.21	181,270.31	133,604.21	44,117.87
Rhode Island.....	27,611.59	30,805.26	27,611.59	2,676.65
South Carolina.....	50,647.13	61,673.05	50,647.13	11,563.75
South Dakota.....	28,776.08	32,453.35	28,776.08	4,463.66
Tennessee.....	54,253.92	68,626.19	54,253.92	14,353.85
Texas.....	99,111.92	130,339.11	99,111.92	34,468.93
Utah.....	30,000.00	32,918.43	30,000.00	4,072.86
Vermont.....	23,978.23	25,647.42	23,978.23	1,625.39
Virginia.....	72,040.08	85,453.47	72,040.08	13,372.21
Washington.....	52,265.38	58,900.13	52,265.38	7,463.38
West Virginia.....	53,672.75	63,605.37	53,672.75	9,427.23
Wisconsin.....	63,447.20	77,480.99	63,447.20	14,029.88
Wyoming.....	22,647.07	23,757.73	22,647.07	1,351.09
Reserved for allotment for special needs.....		400,000.00		400,000.00

PUBLIC-HEALTH WORK

The public-health titles of the Social Security Act represent an approach to a national health program—a balanced, comprehensive plan of preventive and medical services which must be our ultimate goal. The health provisions of the present act represent the first step toward the achievement of this objective. They seek to reduce drastically the volume of sickness and premature death by making available to all areas and all groups of the population in need of service the proven methods of prevention of these great causes of illness against which we have weapons of unquestioned power—prevention of deaths of mothers and babies; a Nation-wide attack on tuberculosis; prevention of deaths from pneumonia by prompt treatment with serum or simple chemicals; addition of useful years of life to those suffering from cancer by early diagnosis and appropriate medical care; the practical eradication of malaria, a major health problem in large areas of the South; promotion of industrial hygiene, with greatly intensified efforts toward the control of the occupational diseases, and integration of all phases of the preventive program for the health protection of the working population. Such activities as these form

a recognized part of the modern public-health program. In theory, their development is an inherent part of the public-health provisions of the Social Security Act. Accomplishments under the act have failed to realize the full potentialities of these services because of the limited funds available.

Finally, the public-health titles of the act are notable as a demonstration of the successful application of the grants-in-aid system to the field of health. The principle of Federal grants-in-aid for educational purposes has been accepted since the middle of the last century. Its extension to the field of health dates from the passage of the Social Security Act.

In matters concerned with the control of disease, the individuals of a community are interdependent. But the community of today is not the city, or the State—it is Nation-wide, a community of 48 States. Modern methods of transportation have intensified the means of disease spread. A person may be exposed to smallpox in Muncie, Ind., today and spread it to those at the world's fair tomorrow.

#### ACCOMPLISHMENT UNDER TITLE VI

In spite of the relatively small sums made available under the terms of the act, undoubtedly a greater advance has been made in public health in the United States in the past 3 years than ever before within a comparable period. Under title VI of the act, the major development has occurred in the expansion of the basic services designed to prevent illness—the control of acute communicable disease, public health nursing, sanitary control of water and milk supplies, the registration of vital statistics, laboratory service. This trend is a result of the widespread need for basic health organizations in urban, and especially in rural, areas of the country.

The record of accomplishment is tangible. At the end of the year 1936, only 946 of some 3,000 counties in the country were receiving health service under full-time county or district health organizations; at the close of 1938, the number had increased to 1,371, a gain of 425 counties in 2 years. Between 1937 and 1938, full-time public-health nurses employed by State and local agencies increased by 1,720. Over a third of these new nurses are serving rural areas and small cities under 10,000 population. Postgraduate training in public health was given to 3,820 persons between 1936 and 1938. Health officers, medical directors of special services such as tuberculosis and venereal-disease control, public-health nurses, sanitary engineers and other technicians have been equipped to staff newly organized local health departments, and to expand organizations lacking adequate personnel.

#### UNMET PUBLIC-HEALTH NEEDS

Measured in terms of public-health needs, only a beginning has been made. Federal funds available under title VI budgeted by the States for the fiscal year 1939 (including unexpended balances) amount to 9.7 million dollars.

The action of the States in giving major emphasis to basic health organizations is based on evident need. It is estimated that over one-half of the counties in the country are still not served by full-time health officers on a county or district basis. But the need is not

confined to rural areas—the proportion of cities without full-time health officers is almost as high. At the beginning of 1939, 745 counties in the country had no public-health nursing service. But areas having public-health nurses are by no means adequately supplied. In 18 States, the average rural population served by a public-health nurse is between 10,000 and 20,000; in 5 States, the ratio is 1 nurse for between 20,000 and 30,000 persons; in 2 States, the ratio exceeds 1 to 30,000.

Use of so large a proportion of funds available under title VI for the basic essentials of public-health work obviously leaves only a small margin for the special services which hold promise of great return in the promotion of health. In these special health services are included such activities as the control of tuberculosis, pneumonia, cancer, and malaria; services in industrial hygiene, and in dental hygiene. Only a million dollars of Federal funds have been budgeted by the States for these services in the current fiscal year—about 11 percent of the total funds available. In marked contrast to the widespread use of Federal funds for the expansion of the essential health services, allocation of funds for these special health services has been made by relatively few States. Only 6 States have designated Federal funds for cancer control, although 3 additional States are supporting activities in this field from State funds. Federal funds help pneumonia-control activities on a State-wide basis in 15 States. About half of the States have budgeted Federal funds for the control of tuberculosis, and industrial hygiene services. The meager development of these special health services permitted by funds authorized under the existing terms of title VI creates an urgent need for additional Federal funds for this purpose.

To expand public-health activities toward the solution of these urgent health problems, it is the consensus among the State health authorities that the sum authorized under section 601 of title VI should be increased from \$8,000,000 to \$12,000,000. In making use of these additional funds, particular emphasis would be placed on developing State programs for the control of tuberculosis and malaria, for the reduction of mortality from cancer and pneumonia, and for industrial-hygiene activities.

### VOCATIONAL REHABILITATION

The basic act providing for the vocational rehabilitation of persons disabled in industry or otherwise was passed by the Congress in 1920. The purpose of this act is to assist physically disabled persons, through guidance, medical and surgical treatment, artificial appliances, retraining, placement, and other essential services, in entering or returning to suitable employment in order that they may support themselves and their dependents.

For carrying out its purposes the basic Vocational Rehabilitation Act authorized the appropriation of \$1,000,000 annually to be allotted to the States on the basis of their population with the stipulation that, to receive its allotment, a State must accept the provisions of the Federal act and match its expenditures from Federal funds dollar for dollar with State funds.

The basic act was not a permanent and continuing one but was extended from time to time by the Congress until 1935, when the vocational rehabilitation program was incorporated as a part of the social

security program. Under the Social Security Act the Vocational Rehabilitation Act was made permanent, and the authorization for appropriations was increased to \$1,938,000 annually, which when matched by State funds, makes available for rehabilitation purposes approximately \$4,000,000 annually.

Few people are aware of the size of the problem of the physically disabled and its social and economic significance. Recent surveys by the United States Public Health Service and by a number of State rehabilitation departments show that at any one time at least 30 persons in each 1,000 of the general population are physically disabled. On this basis there are in this country nearly 4,000,000 physically disabled persons.

Each year in the United States at least 800,000 persons become physically disabled through industrial, home, automobile, and other accidents, and diseases, such as arthritis, tuberculosis, and heart trouble. The experiences of the State rehabilitation departments show that not all of these persons are disabled to the extent that they are unable after convalescence to enter or return to employment. About 67 percent are able to make their own employment adjustment. The remaining 33 percent require rehabilitation service to aid them to engage in remunerative employment.

Disabled persons who require assistance in their employment adjustment fall into three major groups:

1. Those who through training and other rehabilitation services can be returned to regular lines of competitive employment. This group comprises 60,000 persons annually.

2. Those whose disabilities are so serious that they cannot be restored to competitive employment but can be trained in small business enterprises or in sheltered workshops. This group numbers about 150,000.

3. Those who are so disabled that, if they are to be employed at all, they must be provided with suitable work in their homes. This group includes approximately 50,000 persons annually.

The first group (60,000) described above constitute the most pressing problem. Practically all of this group could and should be rehabilitated to complete self-support.

Experience of the States shows that it costs an average of \$300 per case to rehabilitate a disabled person. On this basis the present program, with maximum efficiency in the expenditure of funds, cannot be expected to rehabilitate more than 12,500 persons per year. Thus each year 47,500 of those who could and should be made self-supporting cannot be rehabilitated because of lack of sufficient funds.

The cost of maintaining a dependent person in idleness averages about \$500 per year. The maintenance of 47,500 disabled persons (of the 60,000 who could and should be rehabilitated to complete self-support in competitive employment) is now costing someone—relatives, communities, or the State and Federal Governments—\$23,750,000 per year. The expenditure by the Federal and State Governments of \$300 each for their rehabilitation would not only obviate the enormous annual cost of maintaining these persons in idleness, but would on the basis of 20 years' experience in rehabilitating the disabled, increase the economic income to the Nation by some \$47,500,000 per year.

Obviously it would not be wise to appropriate at once funds sufficient to meet the whole vocational rehabilitation problem. It would appear, however, that a substantial increase over the present amount could be efficiently absorbed and would be a wise investment of public funds. The machinery for rehabilitating the disabled is already in existence. Hence, any additional funds provided could be used entirely for services to those who at present cannot be served.

The House bill increased the amount authorized to be appropriated annually for vocational rehabilitation to \$2,938,000. Your committee have increased this amount to \$4,000,000. Your committee have provided that the minimum allotment for any State shall be \$30,000, instead of \$10,000, as is provided in existing law, and also for an annual flat allotment to Hawaii of \$15,000 instead of the \$5,000 provided in existing law. The amendment made by your committee also provides an annual flat allotment to Puerto Rico of \$15,000 instead of the House provision which placed Puerto Rico on the same basis as the States, and increases the authorization for appropriations for administrative expenses.

#### AID TO PUERTO RICO

At the present time the act does not extend to Puerto Rico. The bill extends coverage to Puerto Rico for the purposes of titles V and VI of the Social Security Act (grants to States for maternal and child welfare, vocational rehabilitation, and public health work).

#### GENERAL

Two amendments of a general character are contained in the bill. These are:

1. An amendment to prohibit the disclosure of information obtained by the Board or its employees except under certain restricted conditions related to proper administration.
2. Penalties are provided for certain frauds and for impersonation in securing information concerning an individual's date of birth, employment, wages, or benefits of any individual.

### DETAILED EXPLANATION OF THE BILL

#### SHORT TITLE

Section 1 of the bill provides that the act may be cited as the "Social Security Act Amendments of 1939."

#### TITLE I.—AMENDMENTS TO TITLE I OF THE SOCIAL SECURITY ACT CHANGES IN REQUIREMENTS FOR STATE OLD-AGE ASSISTANCE PLANS

Section 101: This section amends section 2 (a) of the Social Security Act. Section 2 (a) sets out in clauses (1) through (7) certain basic requirements which a State old-age assistance plan must meet in order to be approved by the Social Security Board. Clauses (5) and (7) are amended and a new clause, numbered (8), is added.

There are two amendments to clause (5). One amendment, which was included in the bill as passed by the House, merely makes it clear that the methods of administration of the State plan must be proper

as well as efficient. By the other amendment proposed by this committee, the matter in parentheses is stricken and language is inserted which specifically provides that, after January 1, 1940, the State plan must provide as part of the methods of administration under the plan, such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Board to be necessary for the proper and efficient operation of the plan. The committee believe that, under this provision, the several State and local agencies will be aided in their efforts to select adequately trained personnel, and to provide more efficient administration of the plan. This proposal would not authorize the Social Security Board to participate in or to require the selection of particular individuals to be employed by the State or local agency.

The present subject matter of clause (7) is stricken from section 2 (a) by the amendment and is treated in section 102 of the bill. The amended clause (7) is effective July 1, 1941. Under this clause the State plan must provide that the State agency shall, in determining need, take into consideration any income and resources of an individual claiming old-age assistance. This will make it clear that, regardless of its nature or source, any income or resources will have to be considered, including ordinary income from business or private sources, Federal benefit insurance payments under title II of the Social Security Act, and any other assets or means of support. The committee recommends this change to provide greater assurance that the limited amounts available for old-age assistance in the States will be distributed only among those actually in need and on as equitable a basis as possible.

The new clause, numbered (8), also effective July 1, 1941, requires that the State plan must provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of old-age assistance.

#### PAYMENT TO STATES FOR OLD-AGE ASSISTANCE

Section 102: This section amends section 3 of the Social Security Act.

Subsection (a) of section 3 is amended so that its provisions will conform with section 1 of the Social Security Act, which authorizes appropriations to enable States to furnish financial assistance to *needy* aged individuals and increases the amount up to which the Federal Government will contribute one-half from \$30 to \$40.

Subsection (b) is amended so as to provide that the Board in making grants to States shall reduce the amount to be paid to any State for any quarter by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Board, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to old-age assistance furnished under the State plan.

The provision will include all recoveries made with respect to old-age assistance furnished under the State plan, such as, for example, recoveries from the estates of recipients, payments under mistake, etc.

A proviso eliminates, for the purpose of determining the amount of the offset, any amount recovered from the estate of a deceased recipient, not in excess of the amount expended by the State for the

funeral expenses of such deceased recipient in accordance with the State public assistance law upon which the State plan is based.

Section 103: This section amends section 6 so as to conform its provisions with section 1 of the Act, which authorizes appropriations to enable States to furnish financial assistance to aged *needy* individuals.

## TITLE II—AMENDMENTS TO TITLE II OF THE SOCIAL SECURITY ACT

### FEDERAL OLD-AGE AND SURVIVORS INSURANCE BENEFITS

This title amends title II of the Social Security Act. It revises and extends the present provisions for old-age insurance benefits. It includes benefits for qualified wives and children of individuals entitled to old-age insurance benefits and for qualified widows, children, and parents of deceased individuals, who, regardless of age at death, have fulfilled certain conditions. It also provides a lump-sum payment on death where no monthly benefits are then payable. It also advances the date for initial monthly benefit payments from 1942 to 1940. A Federal old-age and survivor insurance trust fund is established, and provision is made for a board of three trustees to manage the trust fund. A number of administrative changes are made, and there is provision for judicial review of decisions of the Social Security Board with respect to benefit rights. A detailed explanation of title II as amended follows.

### FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND

Section 201: This section creates a Federal old-age and survivors insurance trust fund in place of the present old-age reserve account, which is abolished by these amendments. The trust fund is to be held by a board of trustees composed of the Secretary of the Treasury, the Secretary of Labor, and the Chairman of the Social Security Board, all ex officio. Amounts equivalent to 100 percent of the taxes received under the Federal Insurance Contributions Act (formerly title VIII of the Social Security Act) are permanently appropriated to the trust fund, and old-age and survivors insurance benefits will be paid out of the fund. This should clarify the relationship between contributions under the social-security program in the form of taxes and the source of benefit payments.

Section 201 (a) creates the trust fund and provides that the fund shall consist of (1) the securities held by the Secretary of the Treasury for the present old-age reserve account, (2) the amount standing to the credit of such account on January 1, 1940, and (3) amounts equivalent to 100 percent of the taxes received under the Federal Insurance Contributions Act, which are permanently appropriated to the trust fund.

Section 201 (b) creates a board of trustees of the Federal old-age and survivors insurance trust fund to be composed of the Secretary of the Treasury, the Secretary of Labor, and the Chairman of the Social Security Board, all ex officio. The Secretary of the Treasury is designated as the managing trustee. The board of trustees created is similar to the set-up in the Postal Savings Act. The board of trustees, in addition to reporting annually to Congress on the status and operations of the trust fund, will be required

to report immediately to Congress whenever the board is of the opinion that during the ensuing 5 fiscal years the trust fund will exceed three times the highest annual expenditures anticipated during that 5-fiscal-year period and whenever it is of the opinion that the amount of the trust fund is unduly small.

Section 201 (c) directs the managing trustee of the trust fund to invest the surplus of the trust fund in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Special obligations bearing interest at a rate equal to the average rate of interest on the public debt, computed as of the end of the calendar month next preceding the date when the special obligations are issued, may be issued to the trust fund. However, the bill contains a provision that such special obligations shall be issued only if the managing trustee determines that the purchase of obligations in which the trust fund is permitted to invest on original issue or at the market price is not in the public interest.

Section 201 (d) authorizes the managing trustee to sell regular obligations acquired by the trust fund at the market price and to redeem the special obligations at par plus accrued interest.

Section 201 (e) provides that the interest on and the proceeds from the sale or redemption of obligations held in the trust fund shall be credited to and form a part of the trust fund.

Section 201 (f) sets up a procedure whereby the trust fund will be required to pay the cost of administration by the Social Security Board and the Treasury of the old-age and survivors insurance system. Monthly, the managing trustee will pay from the trust fund into the general fund of the Treasury the amount which he and the Chairman of the Social Security Board estimate will be expended during the month for the administration of the system.

Section 201 (g) provides that the trust fund shall be available for making benefit payments required under title II of the Social Security Act.

The only amendment recommended by your committee to this section and to section 202 (a) of the House bill changes the word "survivor" to "survivors."

#### OLD-AGE AND SURVIVOR INSURANCE BENEFIT PAYMENTS

##### *Primary insurance benefits.*

Section 202 (a): This subsection provides, for aged individuals, monthly "primary insurance benefits" (computed under sec. 209 (e)), which are based on an individual's "average monthly wage" (see sec. 209 (f)). These benefits are payable to an individual for each month until his death, upon condition that he (1) is at least 65 years of age, (2) is a fully insured individual (defined in sec. 209 (g)), and (3) has applied for them. Primary insurance benefits are payable beginning with the first month in which the individual becomes eligible for them, having met conditions (1), (2), and (3) above. All of such conditions may be met in a single month, or part in one month and part in another month or months.

The first month for which a primary insurance benefit or any other benefit can be paid under section 202, is January 1940. All benefits under section 202 are payable as nearly as possible in equal

monthly installments, but a benefit for a particular month is not necessarily payable within that month.

*Wife's insurance benefits.*

Section 202 (b): This subsection provides for monthly "wife's insurance benefits" for an aged wife (defined in sec. 209 (i)) whose husband is living and is entitled to "primary insurance benefits" under subsection (a). The purpose of these wife's benefits, which are based on the wages of the husband, is to assure the wife of a monthly amount equal to one-half of the amount which her husband receives as a monthly primary insurance benefit. A benefit is payable to the wife for each month, upon condition that she (1) is at least 65 years of age, (2) has applied for the benefits, (3) was living with her husband at the time of filing such application, and (4) is not herself entitled to a monthly primary insurance benefit which is equal to or greater than one-half of a monthly primary insurance benefit of her husband.

*Benefit rate.*—A wife's insurance benefit for a month is equal to one-half of the monthly primary insurance benefit of the husband, but if the wife is or becomes entitled to a monthly primary insurance benefit under subsection (a), which is less than one-half of the monthly primary insurance benefit of her husband, then her wife's insurance benefit for the month in which she becomes entitled to such primary insurance benefit and for each month thereafter is equal to the difference between one-half of her husband's monthly primary insurance benefit and her monthly primary insurance benefit.

*Benefit period.*—Wife's insurance benefits are payable beginning with the first month in which the wife becomes eligible for them, having met conditions (1), (2), (3), and (4) above. All of such conditions may be met in a single month, or part in one month and part in another month or months. The benefits end when the wife dies, her husband dies, they are divorced, or she becomes entitled to a monthly primary insurance benefit under subsection (a) equal to or exceeding one-half of her husband's monthly primary insurance benefit.

*Child's insurance benefits.*

Section 202 (c): Paragraphs (1) and (2) of this subsection provide for monthly "child's insurance benefits" for a child (defined in sec. 209 (k)) whose parent is entitled to primary insurance benefits or whose deceased parent (regardless of his age at death) was a fully or currently insured individual (as defined in sec. 209 (g) and (h)). The purpose of these child's benefits is to assure the child of a monthly amount based on the wages of the parent or deceased parent. A benefit is payable to a child for each month, upon condition that the child (1) has filed application for the benefits (or application has been filed for him), (2) was unmarried and had not attained age 18 at the time his application was filed, and (3) was "dependent upon" the parent at the time the application was filed, or, if the parent has died, was "dependent upon" him at the time of death.

*Benefit rate.*—A child's insurance benefit for a month is equal to one-half of the monthly primary insurance benefit of the parent or deceased parent with respect to whose wages the child is entitled to receive the benefit. In the case of the deceased parent, such primary insurance benefit is the amount which such parent would have been entitled to receive if he had, before his death, met the conditions for payment of a primary insurance benefit under subsection (a). If there

is more than one such parent or deceased parent, the child is entitled to one-half of the primary insurance benefit which is largest.

*Benefit period.*—Child's insurance benefits are payable beginning with the first month in which the child becomes eligible for them, having met conditions (1), (2), and (3) above. All of such conditions may be met in a single month, or part in one month and part in another month or months. The child's benefits end when he dies, marries, is adopted, or attains age 18.

*"Dependent upon" defined.*—Paragraphs (3) and (4) of section 202 (c) define the term "dependent upon," as used in paragraph (1). As a child is normally dependent upon his father or adopting father, paragraph (3) provides that he shall be deemed so dependent unless, at the time the child's application for benefits is filed, or if such father or adopting father is dead, at the time of death, such individual was not living with the child or contributing to his support and (A) the child is neither the legitimate nor adopted child of such individual, or (B) the child had been adopted by some other individual, or (C) the child, at the time of such individual's death, was living with and supported by the child's stepfather.

As a child is not usually financially dependent upon his mother, adopting mother, or stepparent, paragraph (4) provides that, for the purposes of paragraph (1), a child shall not be deemed dependent upon any such individual unless, at the time the child's application for benefits is filed, or, if such individual is dead, at the time of death, no parent other than such mother, adopting mother, or stepparent was contributing to the support of the child and the child was not living with his father or adopting father.

#### *Widow's insurance benefits.*

Section 202 (d): This subsection provides for monthly "widow's insurance benefits" for an aged widow (defined in sec. 209 (j)) whose husband died a fully insured individual (defined in sec. 209 (g)). The purpose of these widow's benefits, which are based on the wages of the deceased husband, is to assure the widow of a monthly amount equal to three-fourths of the amount to which her husband was entitled, or would have been entitled if he had, before his death, met the conditions for a primary insurance benefit under subsection (a). A benefit is payable to the widow for each month, upon condition that she (1) is at least 65 years of age, (2) has not remarried, (3) has filed application for the benefits, (4) was living with her husband at the time of his death, and (5) is not herself entitled to a monthly primary insurance benefit which is equal to or greater than three-fourths of the monthly primary insurance benefit of her husband.

*Benefit rate.*—A widow's insurance benefit for a month is equal to three-fourths of the monthly primary insurance benefit of her husband, but, if she is or becomes entitled to a monthly primary insurance benefit under subsection (a) which is less than three-fourths of the monthly primary insurance benefit of her husband, then her widow's insurance benefit for the month in which she becomes entitled to such primary insurance benefit, and for each month thereafter, is equal to the difference between three-fourths of her husband's monthly primary insurance benefit and her monthly primary insurance benefit.

*Benefit period.*—Widow's insurance benefits are payable beginning with the month in which the widow becomes eligible for them, having met conditions (1), (2), (3), (4), and (5) above. All of such conditions

may be met in a single month, or part in one month and part in another month or months. Benefits end when the widow remarries, dies, or becomes entitled to a monthly primary insurance benefit equal to or exceeding three-fourths of the monthly primary insurance benefit of her husband.

*Widow's current insurance benefits.*

Section 202 (e): This subsection provides for "widow's current insurance benefits", which are based on the wages of a husband who died a fully or currently insured individual (as defined in sec. 209 (g) and (h)). The purpose of this subsection is to extend financial protection to the widow regardless of her age, while she has in her care a child of the deceased husband entitled to child's insurance benefits. It provides assurance for such a widow, before she becomes 65 years of age, of a monthly amount equal to three-fourths of the amount to which her husband would have been entitled if, before his death, he had met the conditions for a primary insurance benefit under subsection (a). When she becomes 65 such widow, if her husband was a fully insured individual, will become entitled to a widow's insurance benefit under subsection (d). If her husband was currently (but not fully) insured, she will continue to be entitled to her widow's current benefit under subsection (e) so long as there is a child of her husband who is entitled to receive child's insurance benefits. A benefit is payable to the widow for each month, upon condition that she (1) has not remarried, (2) is not entitled to receive a monthly widow's insurance benefit under subsection (d) or a monthly primary insurance benefit which is equal to or greater than three-fourths of a monthly primary insurance benefit of her husband, (3) was living with her husband at the time of his death, (4) has filed application for the benefits, and (5) at the time of filing such application has in her care a child of the deceased husband entitled to receive child's insurance benefits. By "in her care" is meant that she takes responsibility for the welfare and care of the child, whether or not she actually lives in the same home with the child at the time she files application.

*Benefit rate.*—A widow's current insurance benefit for a month is equal to three-fourths of the monthly primary insurance benefit of her husband, but, if she is or becomes entitled to a monthly primary insurance benefit under subsection (a) which is less than three-fourths of a monthly primary insurance benefit of her husband, then her widow's current insurance benefit for the month in which she becomes entitled to such primary insurance benefit and for each month thereafter, is equal to the difference between three-fourths of her husband's monthly primary insurance benefit and her monthly primary insurance benefit.

*Benefit period.*—Widow's current insurance benefits are payable beginning with the month in which the widow becomes entitled to them, having met conditions (1), (2), (3), (4), and (5) above. All of such conditions may be met in a single month, or part in one month and part in another month or months. The benefits end when no child of the deceased husband is further entitled to receive a child's insurance benefit, the widow becomes entitled to receive a primary insurance benefit under subsection (a) equal to or exceeding three-fourths of a primary insurance benefit of the deceased husband, she becomes entitled to receive a widow's insurance benefit, she remarries, or dies.

*Parent's insurance benefits.*

Section 202 (f): This subsection provides for "parent's insurance benefits" for an aged parent whose son or daughter died a fully insured individual (as defined in sec. 209 (g)), leaving no widow and no unmarried surviving child under age 18. The purpose of these benefits, which are based on the wages of the son or daughter, is to extend financial protection to the aged parent where the parent was wholly dependent upon and supported by the son or daughter at the time such son or daughter died, and where no such widow or child survives. It assures the parent, in such cases, of a monthly amount equal to one-half of the amount to which the son or daughter was or would have been entitled as a fully insured individual if such son or daughter before death, had met the conditions for a primary insurance benefit under subsection (a). A benefit may be payable to both a mother and a father of the same fully insured individual. A benefit is payable to the parent for each month, upon condition that such parent (1) has attained age 65, (2) was wholly dependent upon and supported by the son or daughter at the time of the son's or daughter's death and filed proof of such dependency and support within 2 years of the date of such death, (3) has not married since such death, (4) is not entitled to receive any other monthly insurance benefits of any kind or is entitled to receive one or more of such monthly benefits, the total of which is less than one-half of the monthly primary insurance benefit of the deceased son or daughter, and (5) has filed application for parent's insurance benefits.

*Benefit rate.*—The parent's insurance benefit for a month is equal to one-half of the monthly primary insurance benefit of the son or daughter with respect to whose wages the parent is entitled to a benefit. If there is more than one such son or daughter for a month in which the parent is entitled to parent's benefits, the parent is entitled to one-half the primary insurance benefit which is largest. If the parent is or becomes entitled to a monthly benefit or benefits (other than parent's insurance benefits) and such monthly benefit or the total of such monthly benefits is less than one-half of the monthly primary insurance benefit of the son or daughter, then the parent's benefit for the month in which the parent becomes entitled to such other benefit or benefits, and for each month thereafter, is equal to the difference between such other monthly benefit or the total of such other monthly benefits and one-half of the son's or daughter's monthly primary insurance benefit.

*Benefit period.*—Parent's insurance benefits are payable beginning with the month in which the parent becomes eligible for them, having met conditions (1), (2), (3), (4), and (5) above. All of such conditions may be met in a single month, or part in one month and part in another month or months. Benefits end when the parent dies, marries, or becomes entitled to receive for any month an insurance benefit or benefits (other than parent's insurance benefits) in a total amount equal to or exceeding one-half of a primary insurance benefit of the deceased son or daughter.

*"Parent" defined.*—Paragraph (3) of section 202 (f) defines the term "parent" to mean the mother or father of an individual, the stepparent of an individual by a marriage contracted before such individual attained age 16, and the adopting parent by whom such individual was adopted before he attained age 16.

*Lump-sum death payments.*

Section 202 (g): This section provides for the payment of a lump sum to a person hereinafter described, upon the death, after December 31, 1939, of a fully or currently insured individual (as defined in sec. 209 (g) and (h)) who left no surviving widow, child, or parent who would, on filing application in the month in which such fully or currently insured individual died, be entitled to a benefit for such month under subsection (b), (c), (d), (e), or (f) of this section.

*Description of persons who may be entitled.*—The lump-sum payments are made to the following persons under the conditions stated: (1) To the widow or widower of the deceased; (2) if no such widow or widower is living at the time of the fully or currently insured individual's death, to any child or children of the deceased and to any other person or persons who are, under the intestacy law of the State where the deceased was domiciled, entitled to share as distributees with such children of the deceased, in such proportions as provided by such law; (3) if no widow or widower and no such child and no such other person is living at the time of such death, to the parent or parents of the deceased. The Board is to determine the relationship under (1), (2), and (3) above, and if there is more than one person entitled hereunder, is to distribute the lump-sum payment among all who are entitled. If none of the persons described under (1), (2), and (3) is living at the time of the Board's determination, the amount due is to be paid to any person or persons equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased (but no such payment for burial expenses may exceed the amount actually disbursed by the person or persons who paid such expenses).

It will be noted that your committee amendment limits payment of the lump sum, in cases arising under (3) above, to the parent or parents of the deceased, eliminating the provision of the House bill for distribution among persons who may be entitled under the law of the State to share as distributees with the parents of the deceased. The committee proposal would also provide that when more than one parent is entitled to a payment, each of them would share equally.

*Amount of payment.*—The lump-sum payment is an amount equal to six times a primary insurance benefit for a month (as defined in sec. 209 (e)) of the fully or currently insured deceased individual.

*Application for lump-sum payment.*—The lump sum is payable only if application is filed by or on behalf of the person entitled (whether or not legally competent) prior to the expiration of 2 years after the date of death of the fully or currently insured individual.

*Delayed applications.*

Section 202 (h): This subsection provides that an individual who would have been entitled to an insurance benefit under subsection (b), (c), (d), (e), or (f) of this section for any month, if he had filed his application for such benefit during such month, shall be entitled to such benefit for such month if he files application for it before the end of the third month immediately succeeding such month. The purpose of this section is to prevent the loss of benefits to individuals who might not know of their right to benefits or who, for some other reason, have delayed filing their applications. If, for example, in March a widow has fulfilled all eligibility conditions under section

202 (d) except the filing of her application, and files application in June, she will be entitled to a benefit for March, April, May, June, and thereafter, as if she had filed her application in March. Similarly, if she files application in July, she will be entitled to a benefit for April, May, June, July, and thereafter, just as if she had filed her application in April.

#### REDUCTION AND INCREASE OF INSURANCE BENEFITS

Section 203: This section provides a maximum and minimum for benefits payable under section 202, and for reduction or increase to such maximum or minimum, as the case may be, of the monthly amount of the benefit which would be payable except for this section. It provides also for deductions from benefits because of gainful employment for a stated amount of wages, and under certain other enumerated circumstances, and for deductions for lump-sum payments made prior to 1940 upon attainment of age 65.

##### *Maximum benefits.*

Section 203 (a): This subsection of the bill as passed by the House provides that any benefits payable on the basis of an individual's wages shall be reduced, so that the maximum for any benefit (if only one benefit for a month is payable with respect to the wages of an individual) or for the total of all benefits (if more than one benefit is payable for a month will respect to the wages of an individual) shall not exceed (1) \$85, or (2) two times the primary insurance benefit of such individual, or (3) 80 percent of the average monthly wage of such individual, whichever is least. This takes the place of the provision now in the Social Security Act limiting the monthly rate of benefits to \$85.

One of the effects of this provision is that there may in some cases be reductions so that there will be paid a maximum of \$10 per month in monthly benefits whether there are one, two, or more dependents. Your committee feel that in such cases the reduction should not be so great as now provided in the House bill. For example, it is believed that the minimum total of benefits payable for a husband and wife should not be less than \$15, and of a husband, wife, and child, or for four surviving dependent orphans, not less than \$20.

The bill reported by your committee accordingly includes a proposed amendment which would change this provision of the House bill so that the reduction in the amount of a benefit will be required only where the total of benefits payable with respect to an individual's wages is more than \$20, and provides that the total of benefits shall in such cases be reduced to (a) the least of the amounts referred to under (1), (2), and (3) above, or (b) \$20, whichever is greater. It also strikes out reference to reduction of a single benefit as superfluous because of certain other proposed amendments which will be mentioned later in detail.

##### *Minimum benefits.*

Section 203 (b): This subsection provides that benefits payable on the basis of an individual's wages shall be increased so that the minimum for any benefit or for the total of benefits (where more than one benefit is payable for a month) is \$10. This provision also prevents a reduction under subsection (a) to below \$10 in the case where the average monthly wage is very low.

The parenthetical clause of the House bill making this subsection applicable after reductions under subsection (a) have been made would be made unnecessary by the amendment to subsection (a) proposed by the committee, since under the committee proposal no benefit or total of benefits could be reduced under subsection (a) to below \$10. The clause is therefore eliminated.

*Proportionate reduction or increase.*

Section 203 (c): This subsection of the House bill provides that whenever a reduction or increase is required by subsection (a) or (b) and more than one benefit is payable for the month with respect to the wages of an individual, each of the benefits shall be proportionately increased or decreased, as the case may be.

Under this provision an individual's primary benefit might be subject to reduction. For example, an individual with a wife and two children entitled to benefits would have his \$10 primary benefit reduced. Thus, in the example given, under the provision of the House bill there would be a reduction so that the husband's benefit would be reduced from \$10 to \$8 and the total benefits for wife and children would be \$12. Your committee believe it would be more understandable for the primary benefit to remain at \$10 and the total of benefits for wife and children to be reduced to \$10.

The committee therefore recommend that subsection (c) be changed to except specifically primary insurance benefits from the proportionate reductions from each benefit required under that subsection.

*Deductions because of employment, etc.*

Section 203 (d): This subsection of the House bill provides that deductions shall be made from any benefits to which an individual is entitled, until such deductions total the amount of the benefit or of the benefits (where the individual is entitled to receive more than one insurance benefit) which such individual was entitled to receive for any month in which he (1) rendered services for wages of not less than \$15; or (2) if a child over 16 and under 18 years of age failed to attend school regularly and the Board finds that such attendance was feasible; or (3) if a widow entitled to a widow's current insurance benefit did not have in her care a child of her deceased husband entitled to receive a child's insurance benefit.

Section 203 (e): This subsection provides that deductions shall be made from any wife's or child's insurance benefit until the total equals the wife's or child's benefit or benefits for any month in which the individual, with respect to whose wages such benefit was payable, rendered services for wages of not less than \$15. For example, if a child receives a benefit of \$10 per month because of a father who is receiving a \$20 per month primary insurance benefit, \$10 is deducted from benefits payable to the child if the father works in a month for wages of \$15 or more.

The House bill does not make it clear as to whether children serving as apprentices without pay shall be considered as attending school, and the proposed committee amendments to paragraph (2) of this subsection are to make it clear that apprentices serving without pay are to be regarded as attending school.

The other proposed amendment to this subsection makes it clear that the Board is authorized to determine the proper amount of each deduction to be made in any benefit and the month or months in

which the deduction or deductions are to be made. This also applies in the case of deductions under subsections (e) and (h).

*Duplication of deductions prevented.*

Section 203 (f): This subsection prevents the duplication of deductions under subsections (d) and (e). If, for example, a deduction is imposed because of the occurrence in a month of an event enumerated in subsection (d), there is no deduction because of employment in that month as set forth in subsection (e).

*Report to Board of Employment.*

Section 203 (g): This subsection of the House bill requires that the occurrence of any of the events enumerated in subsection (d) or (e) be reported to the Board by any individual whose benefits are subject to a deduction under those subsections. If the individual had knowledge of the occurrence of the event, failure to so report is penalized by doubling the deduction.

In some instances it should be the person receiving the payment rather than the individual on behalf of whom the benefit is received who should have the duty of making the report required under this subsection. For example, the guardian should report a minor's failure to attend school.

Your committee accordingly propose that this subsection be amended to require that the report be made by any individual who is in receipt of benefits subject to deduction, or who is in receipt of such benefits on behalf of another individual.

*Deductions because of lump-sum payments.*

Section 203 (h): An individual entitled to a benefit under these amendments may have been paid a lump sum upon attainment of age 65, under provisions of the Social Security Act in force prior to 1940. This subsection provides that deductions shall also be made from any primary insurance benefit to which an individual is entitled, or from any other insurance benefit payable with respect to the wages of such individual, until such deductions total the amount of any such lump-sum payment to such individual. Deductions under subsections (d), (e), and (h) are made after any reductions or increases which may be required under subsections (a) and (b).

OVERPAYMENTS AND UNDERPAYMENTS

*Adjustment of erroneous payments.*

Section 204 (a): This subsection provides that errors in payments to an individual shall be adjusted by increasing or decreasing subsequent benefits to which such individual is entitled. If such individual dies before adjustment has been begun or completed, adjustment shall be made by increasing or decreasing subsequent benefits payable with respect to the wages which were the basis of benefits of such deceased individual. Thus, if error is made in the payment of a primary insurance benefit to an individual, adjustment shall be made upon his death in favor of or against his widow, children, and parents, if any, who are entitled to receive benefits. If error is made in the payment of any benefit other than a primary insurance benefit, then upon the death of the individual receiving such benefit, adjustment shall be made in favor of or against the primary beneficiary on the basis of whose wages such erroneous payments were made, and in

favor of or against any other beneficiary whose benefits are payable on the basis of those wages.

Section 204 (b) waives any right of the United States to recover by legal action or otherwise in any case of incorrect payment to an individual who is without fault if adjustment or recovery would defeat the purpose of this title or would be against equity and good conscience,

Section 204 (c) protects from liability any certifying or disbursing officer in any case where adjustment or recovery is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.

#### EVIDENCE, PROCEDURE, AND CERTIFICATION FOR PAYMENT

Section 205: This section of the bill provides a detailed procedure in connection with benefit determination and payment. Administrative and judicial review provisions not now provided in the Social Security Act are included, and administrative provisions are included which are similar to those under which the Veterans' Administration operates.

Section 205 (a) clarifies the Board's power to make rules and regulations to carry out the provisions of title II and directs the Board to adopt regulations concerning the nature and extent of proofs to establish rights to benefits.

Section 205 (b) outlines the general functions of the Board in determining rights to benefits. It requires the Board to offer opportunity for a hearing, upon request, to an individual whose rights are prejudiced by any decision of the Board. The Board is also authorized, on its own motion, to hold such hearings and to conduct such investigations and other proceedings as it may deem necessary or proper, and may administer oaths and affirmations and examine witnesses. Evidence may be received at any hearing before the Board even though inadmissible under rules of evidence applicable to court procedure.

Section 205 (c) provides a procedure for the establishment, maintenance, and correction of wage records. Clause (1) directs the Board to maintain the records, and upon request to inform any wage earner, or after the wage earner's death, his wife, child, or parent, of the amount of his wages and periods of payments, shown by such records at the time of such request. The records are declared to constitute evidence of the amount of wages and the periods of payment, and the absence of an entry for any period constitutes evidence that no wages were paid in such period.

Clause (2) provides that, after the expiration of the fourth calendar year following any year in which wages were paid or alleged to have been paid, the Board's records shall be conclusive of the amount of wages and periods of payment except as provided in clauses (3) and (4).

Clause (3) authorizes the Board to correct its records prior to the expiration of such fourth year. Written notice of any revision which is adverse to the interests of any individual shall be given to such individual in any case where he has been previously notified by the Board of the amount of wages and the periods of payment shown by the records. Upon request prior to the expiration of such fourth year or within 60 days thereafter, the Board shall afford any wage earner, or after his death, his wife, child, or parent, a hearing with respect to any alleged error in its records.

Clause (4) provides for a limited correction of the records after the expiration of the fourth year. The procedure is the same as that provided in clause (3), but no change can be made under this clause except to conform the records with tax returns and other data submitted under title VIII of the Social Security Act or subchapter A of chapter 9 of the Internal Revenue Code, and regulations thereunder.

Clause (5) provides for judicial review of decisions under this subsection in the same manner as is provided in subsection (g).

Section 205 (d) authorizes the Board to issue subpoenas requiring the testimony of witnesses and the production of evidence.

Section 205 (e) authorizes Federal courts to order obedience to the subpoena of the Board and to punish as contempt any disobedience of the court's order.

Section 205 (f) provides that the privilege against self-incrimination shall not excuse any person from testifying but that he shall not be prosecuted or subjected to a penalty or forfeiture on account of any matter concerning which he is compelled to testify after claiming his privilege against self-incrimination.

Section 205 (g) provides that any individual may obtain a review of any final decision of the Board made after a hearing to which he was a party, by commencing a civil action in the appropriate district court of the United States within 60 days after notice of the decision is mailed to him. The present provisions of the Social Security Act do not specify what remedy, if any, is open to a claimant in the event his claim to benefits is denied by the Board. The provisions of this subsection are similar to those made for the review of decisions of many administrative bodies. The Board's decisions on questions of law will be reviewable, but its findings of fact, if supported by substantial evidence, will be conclusive. Where a decision of the Board is based on a failure to submit proof in conformity with a regulation, the court may review only the question of conformity of the proof with the regulation and the validity of the regulation. Provision is made for remanding of proceedings to the Board for further action, or for additional evidence.

Section 205 (h) provides that the findings and decision of the Board after a hearing shall be binding upon all individuals who were parties to such hearing and that there shall be no review of the Board's decisions by any person, tribunal, or governmental agency except as provided in subsection (g). Actions may not be brought against the United States, the Board, or any of its officers or employees under section 24 of the Judicial Code to recover on any claim arising under title II.

Section 205 (i) incorporates substantially the provisions of the present section 207 of the act with respect to certification by the Board of the individuals entitled to payments, except that certification is made to, and payment is made by, the managing trustee. It is provided that the Board may withhold certification pending court review under subsection (g).

Section 205 (j) provides that the Board may, where it appears that the interest of the applicant would be served thereby, whether he is legally competent or incompetent, make certification for payments directly to him or to a relative or some other person, for the use and benefit of such applicant.

Section 205 (k) provides that any payments hereafter made under conditions set forth in subsection (j), any payments made before January 1, 1940, to, or on behalf of, legally incompetent individuals, and any payments made after December 31, 1939, to a legally incompetent individual without knowledge by the Board of such incompetency prior to certification of payment, if otherwise valid under this title, shall be a complete settlement and satisfaction of any claim, right, or interest in and to such payment.

Section 205 (l) authorizes the Board to delegate the powers conferred upon it by this section. This includes the power to issue subpoenas, conduct hearings, make determinations of the right to benefits, and make certification of payments. It also authorizes the Board to appear by its own attorneys in court proceedings under subsection (e) for the enforcement of Board subpoenas.

Section 205 (m) provides that applications for benefits filed prior to 3 months before the applicant becomes entitled to receive benefits, shall be invalid.

Section 205 (n) authorizes the Board to certify to the managing trustee any two or more individuals in the same family for joint payment of the total benefits payable to such individuals.

#### REPRESENTATION OF CLAIMANTS BEFORE THE BOARD

Section 206: This section authorizes the Board to prescribe regulations concerning the practice of attorneys, agents, and other persons in the preparation or presentation of claims for benefits before the Board, and the Board may require of such agents or other persons (other than attorneys) as a condition to recognition that they show that they are of good character and good repute and are competent to represent claimants. An attorney in good standing who is admitted to practice before the highest court of a State, Territory, or District, or before the Supreme Court of the United States or an inferior Federal court, is entitled to represent claimants before the Board. Under certain conditions an individual may be suspended or prohibited from further practice before the Board. While it is not contemplated that the services of an agent or attorney will be necessary in presenting the vast majority of claims, the experience of other agencies would indicate that where such services are performed the fees charged therefor should be subject to regulation by the Board, and it is so provided. The provision is similar to the statute (5 U. S. C., sec. 261) giving the Treasury Department comparable authority. For the purpose of protecting claimants and beneficiaries a penalty is provided for violation of Board regulations prescribing fees and for deceiving, misleading, or threatening claimants or beneficiaries with intent to defraud.

#### ASSIGNMENT

Section 207: This section is identical with section 208 of the Social Security Act which provides that a right to payment under this title shall not be transferable or assignable nor shall any moneys paid or payable be subject to execution or other legal process.

## PENALTIES

Section 208: This section is designed to protect the system against fraud. The present penal provisions are broadened and clarified so as to specifically apply to the making of false statements such as in tax returns, tax claims, etc., for the purpose of obtaining or increasing benefits, and to apply to the making of false statements, affidavits, or documents in connection with an application for benefits, regardless of whether made by the applicant or some other person.

## DEFINITIONS

*Definition of wages.*

Section 209 (a): This subsection continues the present definition of wages, clarifies it in certain respects, and excludes certain payments heretofore included. Paragraph (2) in the House bill excludes all payments made by the employer to or on behalf of an employee or former employee, under a plan or system providing for retirement benefits (including pensions), or disability benefits (including medical and hospitalization expenses), but not life insurance. Your committee have added an exclusion of payments on account of death (including life insurance) where it is clear that the employee while living does not have certain rights and options. Generally, such payments are excluded under existing law if the employee does not have those rights and options, but it is deemed desirable for purposes of certainty to provide an express exclusion. The payments under paragraph (2) of the House bill and under the bill, as amended, would be excluded even though the amount or possibility of such payments is taken into consideration in fixing the amount of remuneration and even though such payments are required, either expressly or impliedly, by the contract of employment. Since it is the practice of some employers to provide for such payments through insurance or the establishment and maintenance of funds for the purpose, the premiums or insurance payments and the payments made into or out of any fund would likewise be excluded from wages. Paragraph (3) expressly excludes from wages, payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of the employee's tax imposed by section 1400 of the Internal Revenue Code (formerly sec. 801 of the Social Security Act) and employee contributions under State unemployment compensation laws. Paragraph (4) excludes dismissal payments which the employer is not legally obligated to make.

The exclusion of remuneration paid prior to January 1, 1937, is merely a technical change. Such remuneration has never been any basis for the benefits under this title, being excluded in the provisions providing the benefits. Such provisions are simplified by transferring the exclusion to the definition of wages.

Your committee have proposed an amendment, effective in 1940, to the Federal Insurance Contributions Act, giving a tax rebate to employees with total salary of more than \$3,000, who, because they work for more than one employer in a year, have taxable wages in excess of \$3,000 for the year. Your committee accordingly propose an amendment to section 209 (a) of the House bill, so that no more than \$3,000 total remuneration for any calendar year is counted for such year for benefit purposes.

*Definition of employment.*

Section 209 (b): This term is defined in the House bill to mean any service performed prior to January 1, 1940, which would be included under existing law for purposes of credit toward benefits; and to mean any service performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States, or (B) on or in connection with an American vessel (defined in subsec. (d)) under a contract of service entered into within the United States or during the performance of which the vessel touches a port therein, if the employee is employed on, and in connection with, the vessel when outside the United States. No substantive change in existing law is made by the introductory paragraph of this provision except the extension of the definition to include service on American vessels. Your committee, however, propose another substantive change to the introductory paragraph—the provision relative to service performed by an individual after he attains age 65. Under the House bill the Federal Insurance Contributions Act is amended and taxes wages from such services after 1939. Accordingly, the House bill includes such services performed after 1939 in the definition of employment. One of your committee's proposed amendments would make wages from such services performed after 1938 taxable, and it is proposed that the introductory paragraph of section 209 (b) of the bill as it passed the House be amended accordingly. The purpose is to give the opportunity for an additional year of coverage to those who become 65 before 1939. This extension is designed to include, with the qualifications noted, all service which is attached to, or connected with, the vessel (e. g., service by officers and members of the crew and other employees such as those of concessionaires). Individuals who are passengers on the vessel in the generally accepted sense, such as an employee of an American department store going abroad, would not be included, because their service has no connection with the vessel. Service performed on, or in connection with, an American vessel within the United States will be on the same basis as regards inclusion as other services performed within the United States.

Under existing law service performed within the United States (which otherwise constitutes employment) is covered irrespective of the citizenship or residence of the employer or employee. The amendment makes clear that this will be true also in the case of maritime service covered by the amendment, regardless of whether performed within or without the United States. The basic reasons which caused the original coverage to be made without distinctions on account of citizenship or residence apply in the case of seamen. The number of foreign seamen who may be employed on American vessels engaged in trade is limited under our shipping laws.

The definition of the term "employment" under the amendment, as applied to service rendered prior to January 1, 1940, retains the exemptions contained in the present law. The definition applicable to service rendered on and after that date continues unchanged some of the present exemptions, revises others, and adds certain additional ones.

Paragraph (1) continues the exception of agricultural labor, but a new subsection (1) defines the term for purposes of the exclusion.

Paragraph (2) continues the present exception of domestic service in a private home, but adds to the exception such service in a local college club or local chapter of a college fraternity or sorority (not including alumni clubs or chapters). Thus services of cook, waiter, chambermaid, and the house mother, performed for these local clubs and chapters, are exempt.

Paragraph (3) continues the present exception of casual labor not in the course of the employer's trade or business.

A new paragraph (4) excludes service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his parent. This exclusion is already contained in the Federal unemployment tax provisions of the existing law and is considered advisable because of the possibility offered by such employment for collusion in building up credits in certain cases which offer a high return for a small amount of contributions.

Paragraph (5), which takes the place of the existing exclusion of service on documented vessels, excludes service performed on or in connection with a vessel not an American vessel, if the employee is employed on and in connection with such vessel when outside the United States. This provision excludes all service, although performed within the United States, which is rendered by an employee who was rendering service on and in connection with such a vessel upon its entry into the United States or who is rendering such service upon departure of the vessel from the United States. Thus, officers and members of the crew and other employees whose service is rendered both on and in connection with the vessel (such as employees of concessionaires and others whose service is similarly connected with the vessel) when on its voyage are excluded even though the vessel is within the United States, if they come into or go out of the United States with the vessel.

Paragraph (6) continues the exemption of service performed in the employ of the United States but, with respect to instrumentalities of the United States, limits the exemption to those instrumentalities which are (A) wholly owned by the United States or (B) exempt from the tax imposed by section 1410 of the Internal Revenue Code (formerly sec. 804 of the Social Security Act) by virtue of any other provision of law. The change in this provision brings within this title of the act certain Federal instrumentalities not falling within clause (A) or (B), above, such as national banks.

Paragraph (7) continues the exemption of service for State governments, their subdivisions and instrumentalities, but limits the exemption with respect to instrumentalities so that it applies only to an instrumentality which is wholly owned by a State or political subdivision or which would be immune from the tax imposed by section 1410 of the Internal Revenue Code (formerly sec. 804 of the Social Security Act) by the Constitution. The amendment thus narrows the present exemption and in no case broadens it.

Paragraph (8) continues the exemption of religious, charitable, scientific, literary, or educational organizations, but brings the language of the exemption into conformity with the corresponding exemption from income tax under section 101 (6) of the Internal Revenue Code, by adding a specific disqualifying clause applicable where any substantial part of the activities of the organization is carrying on propaganda or otherwise attempting to influence legislation.

Paragraph (9) continues without change the present provisions of law exempting services of employees covered by the railroad-retirement system. This provision leaves unchanged the exemption of the service of an individual in the employ of an employer subject to the railroad retirement system even though the individual receives remuneration in a form, e. g., tips, not recognized as compensation under the Railroad Retirement Act and subchapter B of chapter 9 of the Internal Revenue Code (formerly the Carriers' Taxing Act of 1937), and leaves unchanged the inclusion of service in case it is performed by an employee in the segregable nonrailroad activities of an employer where segregation of the railroad activities from nonrailroad activities is found necessary in the interpretation and administration of the laws relating to the social-security system and the railroad-retirement system.

Paragraph (10) provides several new exclusions from employment. Clause (A) exempts certain service in any calendar quarter performed in the employ of an organization exempt from income tax under section 101 of the Internal Revenue Code, if (i) the remuneration for such service does not exceed \$45; or (ii) without regard to amount of remuneration, if the service is performed in connection with the collection of dues or premiums (away from the home office) for a fraternal beneficiary society, order, or association, or is ritualistic service (wherever performed) in connection with such an organization; or (iii), without regard to amount of remuneration, if the service is performed by a student enrolled and regularly attending classes at a school, college, or university. Organizations so exempt from income tax and thus within this provision include the following: Certain labor, agricultural, and horticultural organizations, mutual savings banks, fraternal beneficiary societies, building and loan associations, cooperative banks, credit unions, cemetery companies, business leagues, chambers of commerce, real estate boards, boards of trade, civic leagues, local associations of employees, social clubs, local benevolent life insurance associations, mutual irrigation and telephone companies, farmers' or other mutual hail, cyclone, casualty, or fire insurance companies or associations, farmers' cooperative marketing and purchasing associations, corporations organized to finance crop operations, voluntary employees' beneficiary associations, and religious or apostolic associations or corporations.

Paragraph (10), clause (B), of the House bill excepts service in the employ of an agricultural or horticultural organization, regardless of the amount of remuneration. The committee report of the Ways and Means Committee states that these organizations are identical with agricultural and horticultural organizations exempt from income tax under section 101 (1) of the Internal Revenue Code. The proposed amendment of your committee would be to clarify the provision.

Paragraph (10), clause (C), excepts service in the employ of a voluntary employees' beneficiary association, providing for payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (i) no part of its net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (ii) 85 percent or more of the income consists of amounts collected from members for the sole purpose of making such payments and meeting expenses. This exemption is identical with that of these organizations under section 101 (16) of the Internal Revenue Code and will have the same scope.

Paragraph (10), clause (D), of the House bill excepts all service performed in the employ of a voluntary employees' beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if (i) admission to membership in such association is limited to individuals who are employees of the United States Government, and (ii) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual. The proposed amendment is merely clarifying.

Paragraph (10), clause (E), excepts service performed in any calendar quarter in the employ of a school, college, or university, not exempt from income tax, if such service is performed by a student enrolled and regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed \$45. In determining the remuneration, for purposes of the \$45 limitation, the value of room, board, and tuition, if furnished by the school, college, or university as part of the remuneration, would be excluded.

A calendar quarter is any period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

Paragraph (11) excepts service performed in the employ of a foreign government, and paragraph (12) similarly excepts, on a basis of reciprocity, service performed in the employ of an instrumentality wholly owned by a foreign government. These paragraphs are, by section 902 (f) of the bill, made retroactively effective to the date of the enactment of the Social Security Act.

Paragraph (13) excepts service performed as a student nurse in the employ of a hospital or a nurse's training school by an individual who is enrolled and is regularly attending classes in such a school chartered or approved pursuant to State law; and service performed as an interne (as distinguished from a resident doctor) in the employ of a hospital by an individual who has completed a 4 years' course in a medical school chartered or approved pursuant to State law.

Paragraph (14) is a new paragraph proposed by your committee. This amendment would exclude fishermen from coverage. It would also exclude officers and members of crews (even though not fishermen) of any vessel less than 400 tons or of any sail vessel regardless of tonnage if the vessel is engaged in specified fishing activities. The tonnage of vessels will be determined by methods employed for determining tonnage for the purpose of registry.

Paragraph (15) is a new paragraph proposed by your committee, which would exclude services performed by an individual under the age of 18 in making street sales of newspapers, and in making house-to-house delivery of newspapers or shopping news, including handbills and other similar types of advertising material. It does not include the handling of newspapers and advertising material prior to time they are turned over to the individual who makes the sale, the house-to-house, or other final distribution.

Section 209 (c): This section of the House bill relates to an employee who has performed both included and excluded service for the same employer during a pay period. It provides that if one-half or more of the services constitutes included employment, all of such service will be included; but that if less than one-half constitutes included employment, all will be excluded. The provision does not apply to

the service of an employee in a pay period if any of the service of the employee in the pay period is covered under the railroad-retirement system. The proposed amendment by your committee is merely clarifying.

*Definition of American vessel.*

Section 209 (d): This term is defined to mean any vessel documented or numbered under the laws of the United States; and also to include any vessel neither so documented nor numbered nor documented under the laws of any foreign country while the crew is in the employ only of citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

*"Primary insurance benefit" defined.*

Section 209 (e) of the House bill defines the term "primary insurance benefit" and is the basis for the computation of benefits under section 202. "Primary insurance benefit" means an amount equal to the sum of the following: (1) (A) 40 percent of the amount of an individual's average monthly wage, if such average monthly wage does not exceed \$50, or (B) if such average monthly wage exceeds \$50, 40 percent of \$50, plus 10 percent of the amount by which such average monthly wage exceeds \$50, and (2) an amount equal to 1 percent of the amount computed under (1) above multiplied by the number of years in which \$200 or more of wages were paid to such individual. This section sets forth the method of computing the amount of a primary insurance benefit for a month. In the case of a living individual such amount is the amount payable as a benefit under section 202 (a). Such amount also serves as the basis for computing, in the case of a living or deceased individual, any other benefit (or a lump sum) which may be payable on the basis of such individual's wages.

The amendment proposed by your committee to clause (1) places a limit of \$250 on the average monthly wage upon which computation of the benefit may be based. While it will be impossible to exceed this average from employment after 1939 under your committee's proposal in connection with tax rebates, in an occasional case a person earning large amounts with several employers, prior to 1940 and retiring in the near future, might otherwise receive unjustifiably large benefits.

This proposal would also liberalize the House bill in this respect by providing that the minimum primary insurance benefit shall be \$10 and, under the amendments proposed to section 203, this minimum primary insurance benefit would not be subject to reduction as a primary insurance benefit would be under the provisions of the House bill.

*Average monthly wage.*

Section 209 (f) of the House bill defines the term "average monthly wage" as used in the formula set forth in subsection (e) to mean the quotient obtained by dividing the total wages paid an individual before the year in which he died or became entitled to receive primary insurance benefits, whichever first occurred, by 12 times the number of years elapsing after 1936 and before such year in which he died or became so entitled, excluding any year prior to the year in which he attained the age of 22 during which he was paid less than \$200. In no case, however, shall such total wages be divided by a number less than 36.

Your committee's proposal would amend the House bill by substituting quarters for years, and eliminating the minimum divisor of 36. Thus the wages which would be counted toward benefits would be those paid before the quarter in which the individual dies or retires rather than before the year in which such event occurs. The minimum divisor in determining monthly average wages would be 18 instead of 36 as 6 quarters are provided in title II as the minimum requirement for benefits. It would also eliminate from the computation quarters which occurred prior to 1939 and which occurred after an individual already 65 had attained that age, thus tending more accurately to reflect his wage loss on retirement.

*Fully insured individual.*

Section 209 (g) of the House bill defines the term "fully insured individual."

Paragraph (1) of the definition provides that individuals who attain age 65 prior to the year 1940, in order to become fully insured individuals, must have not less than 2 years of coverage and have been paid not less than \$600 in wages. This is a flat minimum requirement which applies without regard to the particular year in which an individual attained age 65.

Paragraph (2) of the definition applies to individuals who die or attain age 65 after 1939 and before 1946. It provides a formula for determining the requirements for becoming a fully insured individual, based on the number of years elapsing after 1936 and up to and including the year of death or attainment of age 65. If an individual dies in 1940, he must have at least 3 years of coverage and \$800 in wages. Every second year after 1940 (beginning in 1942) the number of years of coverage required increases by 1 year, and every year after 1940 the amount of wages required increases by \$200 over the amount required for the preceding year. Thus, an individual dying or attaining age 65 in 1945 must have 5 years of coverage and \$1,800 in wages to be fully insured.

Paragraph (3) provides a formula for determining the requirements for individuals who die or attain age 65 in 1946 or thereafter. The determination is based on the number of years elapsing after 1936 or after the year in which an individual attained age 21 (if he attained that age after 1936) and up to and including the year of death or attainment of age 65, subject to a minimum of 5 years of coverage and minimum wages of \$2,000. The provision continues the same rate of increase in coverage requirements from year to year, as provided under paragraph (2), but in no event are wages in excess of \$2,000 required. The minimum coverage provisions are applicable only in cases where the number of years of coverage determined in accordance with the formula is below the minimum. Thus, if an individual attains age 21 in 1950 and dies in 1956, the formula would require only 4 years of coverage, which, by operation of the minimum, would be increased to 5 years of coverage. The total wages required would, of course, be \$2,000.

Under paragraph (4) any individual who has accumulated 15 years of coverage is fully insured, whether or not he earns any wages thereafter.

Your committee propose an amendment to this subsection of the bill, which, while preserving its general principles, would somewhat liberalize and simplify the requirements. The proposal is in substance

that a person would be a fully insured individual if he had half as many quarters of coverage as there were quarters elapsing after 1936 (or his twenty-first birthday, if later), and before he attained age 65 (or died prior to 65). In meeting this requirement, quarters of coverage are counted though occurring after the individual is 65. A quarter of coverage is defined as a calendar quarter in which an individual is paid at least \$50. In addition, the amendment would provide that an individual who has 40 quarters of coverage would be fully insured regardless of whether he earned any wages thereafter.

*Currently insured individual.*

Section 209 (h) defines the term "currently insured individual" to mean any individual with respect to whom it appears to the satisfaction of the Board that he has been paid wages of not less than \$50 for each of not less than 6 of the 12 calendar quarters immediately preceding the quarter in which he died. The purpose of this provision is, while avoiding an unwarranted drain on the trust fund, to provide protection for the surviving dependents of individuals who are paid a certain minimum amount of wages in covered employment within the last 3 years before death, but who have not worked in such employment long enough and have not been paid sufficient wages to have qualified them as fully insured individuals.

Section 209 (i) of the House bill defines the term "wife" to mean the wife of an individual who was married to him prior to January 1, 1939, or if later, prior to the day upon which he attained the age of 60.

Section 209 (j) of the House bill defines the term "widow" (except as used in sec. 202 (g)) as the surviving dependent wife of an individual who was married to him prior to the beginning of the twelfth month before the month in which he died. Your committee propose a change in section 209 (i) and (j) by eliminating the requirement as to the date of marriage in any case where the wife is the mother of a son or daughter of the insured individual.

Section 209 (k) defines the term "child" (except as used in sec. 202 (g)) as the child of an individual, and the stepchild of an individual by a marriage contracted prior to the date upon which he attained the age of 60 and prior to the beginning of the twelfth month before the month in which he died, and a child legally adopted by an individual prior to the date upon which he attained the age of 60 and prior to the beginning of the twelfth month before the month in which he died.

*Definition of "agricultural labor."*

Section 209 (l): The present law exempts "agricultural labor" without defining the term. It has been difficult to delimit the application of the term with the certainty required for administration and for general understanding by employers and employees affected.

Your committee believes that greater exactness should be given to the exception and that it should be broadened to include as "agricultural labor" certain services not at present exempt, as such services are an integral part of farming activities. In the case of many of such services, it has been found that the incidence of the taxes falls exclusively upon the farmer, a factor which, in numerous instances, has resulted in the establishment of competitive advantages on the part of large farm operators to the detriment of the smaller ones.

The definition of "agricultural labor" contained in the bill as reported by the committee is in substantially the same form as in the

House bill; however, the committee does recommend some changes designed to further clarify the extent of the exemption.

Paragraph (1) of this subsection exempts service performed on a farm, in the employ of any person, in cultivating the soil, or in raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and other wildlife. Such services are exempt under existing law only if performed in the employ of the owner or tenant of the farm on which they are rendered. Services performed on a farm in the raising, feeding, and management of fur-bearing animals, such as foxes, not now exempted, will be exempt under paragraph (1). This paragraph also continues the existing exclusion of services performed on a farm in the raising or harvesting of horticultural commodities, including flowers and nursery products, such as young fruit trees, ornamental plants, and shrubs.

Paragraph (2) of the subsection excepts services in the employ of the owner (whether or not such owner is in possession) or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, if the major part of those services are performed on a farm. Under this language certain services are to be regarded as agricultural even though they are not performed in conducting any of the operations referred to in paragraph (1). Services exempt under this paragraph may include, for example, services performed by carpenters, painters, farm supervisors, irrigation engineers, bookkeepers, and other skilled or semiskilled workers whose services contribute in any way to the proper conduct of the farm or farms operated by their employer. Some of these services at present constitute covered employment under some circumstances but not under other circumstances. It is stipulated that the services referred to in this paragraph must be performed in the employ of the owner or tenant or other operator of the farm so that the exemption will not extend to services performed by such persons as employees of a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties.

Paragraph (3) extends the exception to services performed in connection with certain specified products and operations. Ordinarily these services are performed on a farm or are of such a character as to warrant no different treatment than is accorded services performed in connection with farming activities. In order that a uniform rule may be applied in the case of these services, they will be excepted whether or not performed on a farm or in the employ of the owner or tenant of a farm. In the case of maple sap, the exemption will extend to services in connection with the processing of the sap into maple sugar or maple sirup, but not in the subsequent blending or other processing of such sugar or sirup with other products. Under the present exception services performed in connection with the production of maple sirup or maple sugar do not constitute "agricultural labor." Similarly, the existing exception does not extend to services performed in connection with the growing, harvesting, processing, packing, and transporting to market of oleoresin, gum spirits of turpentine, and gum resin. Under this paragraph, however, the exception will apply to services performed in connection with the production or harvesting of crude gum (oleoresin) from a living tree and of

the following products as processed only by the original producer of the crude gum (oleoresin): Gum spirits of turpentine and gum resin, as defined in the Agricultural Marketing Act, as amended. Services performed in connection with any hatching of poultry and in connection with the ginning of cotton will also be excepted. Services performed in connection with the raising or harvesting of mushrooms constitute "agricultural labor" under existing law, only when performed on a farm. The fact that mushrooms are not usually grown under ordinary field conditions but are grown in cellars, caves, barns, or in sheds specially constructed for the purpose has resulted in the employees of some growers being covered while employees of others are not. Under this paragraph all such services will be excepted. Service performed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes will also be excepted under this paragraph. Thus, all service performed in the employ of an organization operating exclusively for the purpose of supplying water to farms would be exempt. Most of such organizations are exempt under the present law as governmental agencies. The others are usually nonprofit companies formed by the farmers who use the water.

Paragraph (4) of the subsection extends the exemption to service (though not performed in the employ of the owner or tenant or other operator of a farm) performed in the handling, planting, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, any agricultural or horticultural commodity, provided such service is performed as an incident to ordinary farming operations or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market. The provisions of the paragraph, however, do not extend to services performed in connection with commercial canning or commercial freezing, nor to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption. The expression "as an incident to ordinary farming operations" is, in general, intended to cover all services of the character described in the paragraph which are ordinarily performed by the employees of a farmer or by employees of a farmers' cooperative organization or group, as a prerequisite to the marketing, in its unmanufactured state, of any agricultural or horticultural commodity produced by such farmer or by the members of such organization or group. The expression also includes the delivery of such commodity to the place where, in the ordinary and natural course of the particular kind of farming operations involved, the commodity accumulates in storage for distribution into the usual channels of commerce and consumption. To the extent that such farmers, organizations, or groups, engage in the handling, etc., of commodities other than those of their own production or that of their members, such handling, etc., is not regarded as being carried on "as an incident to ordinary farming operations." In such a case the rules set forth in subsection (c) of this section apply.

In the case of fruits and vegetables, however, whether or not of a perishable nature, services performed in the handling, drying, packing, etc., of those commodities constitute "agricultural labor" even though not performed as an incident to ordinary farming operations, provided

they are rendered as an incident to the preparation of such fruits or vegetables for market. Under this portion of the paragraph, for example, services performed in the sorting, grading, or storing of fruits or in the cleaning of beans, as an incident to their preparation for market, will be excepted irrespective of whether performed in the employ of a farmer, a farmers' cooperative, or a commercial handler of such commodities.

Since the services referred to in this paragraph must be rendered in the actual handling, drying, etc., of the commodity, the paragraph does not exempt services performed by stenographers, bookkeepers, clerks, and other office employees in the employ of farmers, farmers' cooperative organizations or groups, or commercial handlers. To the extent that services of this character are performed in the employ of the owner or tenant of a farm, however, and are rendered in major part on a farm, they may be exempt under the provisions of paragraph (2).

The last sentence of the subsection makes it clear that the term "farm" as used in this subsection has a broad and comprehensive meaning. The term, for example, includes fur-bearing animal farms. Under present law, services performed in connection with the operation of such farms constitute covered employment. The term also includes greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, regardless of their location. Under the existing exception, labor performed in some greenhouses is excepted while labor in others is not. The inclusion of greenhouses of the kind specified, within the meaning of the term "farm," will make for a more uniform treatment of greenhouse labor and lessen the administrative difficulties which this class of cases presents. Greenhouses used primarily for purposes such as storage or display purposes or for the fabrication of wreaths and corsages (usually in connection with the operation of a retail establishment) do not, of course, come within the exception.

Section 209 (m) provides that determination of whether an applicant is the wife, widow, parent, or child of an individual is to be made by applying such law as the courts of the State of domicile of the individual would apply in determining the devolution of intestate personal property or if such individual was not domiciled in a State, by the courts of the District of Columbia; also that applicants who according to such law have the same status as a wife, widow, parent, or child shall be deemed such.

Section 209 (n) provides that a wife shall be deemed to be living with her husband if they are both members of the same household, or she is receiving regular contributions from him toward her support, or he has been ordered by any court to contribute to her support; and that a widow shall be deemed to have been living with her husband at the time of his death if they were both members of the same household at the time of his death, or she was receiving regular contributions from him toward her support on such date, or he had been ordered by any court to contribute to her support.

## TITLE III—AMENDMENTS TO TITLE III OF THE SOCIAL SECURITY ACT

PAYMENTS TO STATES FOR UNEMPLOYMENT COMPENSATION  
ADMINISTRATION

Section 301: This section substitutes the word "for" for the word "in" in the phrase "during the fiscal year in which such payment is to be made" in the first sentence of section 302 (a) of the Social Security Act. This amendment is recommended in order to authorize the Board to certify unemployment compensation administration grants for proper administrative expenses, regardless of whether incurred within the fiscal year in which the grant is made. This amendment is necessary because of the practical difficulty of determining and certifying with exactness grants to finance all expenses incurred during the fiscal year before the end of that year. The substitution of the phrase "proper and efficient administration" for the phrase "proper administration" in this subsection is made to conform the language of this subsection with similar language in the amended sections 2 (a), 402 (a), 503 (a), 513 (a), and 1002 (a) of the Social Security Act. This insertion does not effect any substantive changes in this subsection. The reference in this subsection to the Internal Revenue Code recognizes the substitution of provisions of the code for the pertinent provisions of title IX of the Social Security Act (the old reference).

## PROVISIONS OF STATE UNEMPLOYMENT COMPENSATION LAWS

Section 302: This section makes certain amendments to the requirements made by section 303 (a) of the Social Security Act which a State unemployment compensation law must meet in order to qualify for grants for administrative expenses.

The reference to the Internal Revenue Code, contained in the introductory sentence, recognizes the substitution of provisions of the code for the pertinent provisions of title IX of the Social Security Act (the old reference).

—The committee recommend an amendment to the parenthetical clause in paragraph (1) which will make it necessary, after July 1, 1941, for the State law to include as part of its provisions for methods of administration, such methods relating to the establishment and maintenance of personnel standards on a merit basis, as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due. The committee believe that, under this provision, the several State agencies will be aided in their efforts to select adequately trained personnel, and to provide more efficient administration of the law. This amendment would not authorize the Social Security Board to participate in or require the selection of particular individuals to be employed by the State agency.

The amendments made by this section to paragraphs (2), (4), and (5) of section 303 (a) of the Social Security Act are designed to make clear that the State may refund contributions paid into the State fund by mistake, and also that cooperative arrangements may be made for payment of compensation (in the case of workers who have moved from the State in which their compensation rights were earned) by one State through employment offices in another State. In addition, the amendments would authorize the refund of contributions paid

with respect to a taxable year by national banks and other instrumentalities of the United States under the proposed amendment to section 1606 of the Internal Revenue Code (formerly sec. 906 of the Social Security Act) if the State law under which such contributions were collected is not certified by the Board with respect to that year under section 1603.

Another change in paragraph (5) substitutes a reference to the State unemployment fund for the (Federal) unemployment trust fund. This is done because the (Federal) unemployment trust fund is in substance merely a place of deposit for State moneys rather than a fund out of which benefit payments are to be made.

The amendment makes no change in paragraphs (3) and (6).

New paragraphs (8) and (9) would make it necessary for the State law to include provision for the expenditure of funds paid to the State for the administration of its unemployment compensation law only for the purposes of and in the amounts found necessary by the Board for the proper and efficient administration of the State law; and for the replacement within a reasonable time of any such funds which by any action or contingency have been lost or have been expended for purposes other than, or in amounts in excess of, those found necessary by the Board for the proper and efficient administration of the State law. The purpose of these requirements is to minimize the possibility of the Board having to refuse to certify an amount for State administrative expenses because of misapplication or loss of previously granted funds for administrative purposes.

In order to enable the States to make the necessary changes in their unemployment compensation laws without incurring the expense of special legislative sessions, the effective date of these two paragraphs is postponed until July 1, 1941.

#### TITLE IV—AMENDMENTS TO TITLE IV OF THE SOCIAL SECURITY ACT CHANGES IN REQUIREMENTS FOR STATE PLANS FOR AID TO DEPENDENT CHILDREN

Section 401: This section amends section 402 (a) of the Social Security Act. Section 402 (a) sets out in clauses (1) through (8) certain basic requirements which a State plan for aid to dependent children must meet in order to be approved by the Social Security Board.

Section 401 (a) contains two amendments to clause (5). One relates to the requirement of "proper" administration and the other concerns the inclusion in State plans, after January 1, 1940, of provisions for personnel standards on a merit basis. These amendments are similar to those made to clause (5) of section 2 (a) of the Social Security Act by section 101 of the bill.

Section 401 (b) adds a new clause, numbered (7), which becomes effective July 1, 1941. Under this clause the State plan must provide that the State agency shall, in determining need, take into consideration any income and resources of any child claiming aid under this title. It also adds a new clause, numbered (8), effective July 1, 1941, which requires that the State plan must provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to dependent children. These new provisions are similar to those added to title I of the Social Security Act by section 101 of the bill.

## PAYMENT TO STATES FOR AID TO DEPENDENT CHILDREN

Section 402: Subsection (a) of this section amends section 403 of the Social Security Act and will become effective on January 1, 1940. Existing law provides for a Federal grant to States having an approved plan for aid to dependent children in an amount equal to one-third of the total of the sums expended under any such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds \$18, or if there is more than one dependent child in the same home, as exceeds \$18 for any month with respect to one such dependent child and \$12 for such month with respect to each of the other dependent children. The bill as passed by the House increases the Federal share to one-half and conforms subsection (b) (1) to this change.

Your committee recommend changing the House provision and existing law by eliminating the present maxima and by providing that the Federal share for each quarter shall be one-half of the sums expended by the State in carrying out its plan, not counting so much of such expenditure as aid to dependent children for any month as exceeds an average of \$18 multiplied by the total number of dependent children receiving aid for the month. Your committee believes that this change in the House bill will enable the States to meet more adequately the demands of this type of program.

Subsection (b) of this section provides that the Board, in making grants to States, shall reduce the amount to be paid to any State for any quarter by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Board, of the net amount recovered by the State or any political subdivision thereof with respect to aid to dependent children furnished under the State plan. The provision is a new one and is similar in scope and operation to the one included by section 102 of the bill in section 3 (b) (2) of title I of the Social Security Act, except that it does not include the proviso relating to funeral expenses of a deceased recipient.

## DEFINITION OF DEPENDENT CHILD

Section 403: This section amends the definition of "dependent child," contained in section 406 (a) of the Social Security Act, so that its provisions will conform to section 401 of the act, which authorizes appropriations to enable States to furnish financial assistance to *needy* dependent children. Section 403 of the bill as passed by the House also amends section 406 (a) of the Social Security Act by including within the meaning of the term "dependent child," a child under the age of 18 if found by the State agency to be regularly attending school. The present definition includes only children under the age of 16. The change will assist the States to aid children who are over 16 and under 18 years of age but are still attending school.

The only change made by your committee in this provision of the House bill is inclusion of language placing nonremunerated apprentices in the same class as children regularly attending school, with respect to the liberalization of the age limitation.

**TITLE V—AMENDMENTS TO TITLES V AND VI OF THE SOCIAL  
SECURITY ACT**

**PUBLIC WELFARE SERVICES**

Your committee have included in the bill a number of changes in the provisions of the Social Security Act relating to maternal and child-welfare services, services for crippled children, vocational rehabilitation, and public-health work. The provisions relating to maternal and child-health services and services for crippled children are administered by the Children's Bureau of the Department of Labor. The provisions relating to public-health work and vocational rehabilitation are administered, respectively, by the Public Health Service and the Office of Education.

**INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR MATERNAL AND  
CHILD-HEALTH SERVICES**

Section 501. This section of the bill increases the authorization of appropriations for grants to States for maternal and child-health services for each fiscal year as provided in section 501 of the Social Security Act from \$3,800,000 to \$5,820,000.

**ALLOTMENTS TO STATES FOR MATERNAL AND CHILD-HEALTH SERVICES**

Section 502. This section of the bill amends section 502 of the Social Security Act, which provides the method by which the appropriations authorized by section 501 shall be allotted. Under subsection (a) of section 502 of the existing law, a flat annual allotment of \$20,000 is made to each State; \$20,000 of the increased authorization is attributable to the fact that Puerto Rico under an amendment to section 1101 of the Social Security Act is included in these provisions as a State. Under subsection (a) of section 502 of the existing law, \$1,800,000 is authorized to be allotted to the various States in the proportion that live births in the State bears to the total number of live births in the United States, using the latest calendar year for which the Bureau of the Census has available statistics. Subsection (a) of this section of the bill increases this amount to \$2,800,000. This amount is required by provisions of section 504 of the Social Security Act to be matched by the State on 50-50 basis.

Under subsection (b) of section 502 of existing law, \$980,000 is authorized to be allotted, apportioned according to the financial need of each State in carrying its plan for maternal and child-health services, taking into consideration the number of live births in the State. Subsection (b) of this section of the bill increases this amount to \$1,980,000. This amount is not required to be matched.

**CHANGE IN REQUIREMENTS FOR STATE PLANS FOR MATERNAL AND  
CHILD-HEALTH SERVICES**

Section 503: This section contains two amendments to clause (3) of section 503 (a) of the Social Security Act. These amendments are similar to those made to clause (5) of section 2 (a) of the Social Security Act by section 101 of the bill.

INCREASE IN AUTHORIZATION OF APPROPRIATION FOR SERVICES FOR  
CRIPPLED CHILDREN

Section 504: This section of the bill increases the authorization of appropriations for grants to States for services to crippled children for each fiscal year as provided in section 511 of the Social Security Act from \$2,850,000 to \$3,870,000.

## ALLOTMENTS TO STATES FOR SERVICES TO CRIPPLED CHILDREN

Section 505: This section of the bill amends section 512 of the Social Security Act by designating the existing law as subsection (a) and writing therein the amount (\$1,830,000) to be allotted thereunder in addition to the flat allotments of \$20,000 for each State (including Puerto Rico). This additional amount is allotted to the States on the basis of the need of each State taking into consideration the number of crippled children in such State in need of services for crippled children and the cost of furnishing such services. The States are required under section 514 of the Social Security Act to match on a 50-50 basis the allotments under this subsection.

The additional appropriation (\$1,000,000) is to be allotted under a new subsection (b) according to the financial need of each State for assistance in carrying out its State plan, after taking into consideration the number of crippled children in such State in need of services for crippled children and the cost of furnishing such service to them. The States are not required to match the allotments under this subsection.

Subsection (c) of the bill designates existing subsection (b) (relating to allotments remaining unpaid at the end of any fiscal year) as subsection (c).

CHANGE IN REQUIREMENTS FOR STATE PLANS FOR SERVICES FOR  
CRIPPLED CHILDREN

This section contains two amendments to clause (3) of section 513 (a) of the Social Security Act. These amendments are identical with those made to clause (5) of section 2 (a) of the Social Security Act by section 101 of the bill.

## PAYMENT TO STATES

Section 507: Subsection (a) of this section of the bill amends section 514 of the Social Security Act by striking out "section 512" and inserting "section 512 (a)." This is a technical change to make it clear that matching of these funds by the State is required only in reference to those allotted under subsection 512 (a).

Subsection (b) of this section of the bill adds subsection (c) to section 514 of the act to provide the method of paying the amounts allotted under amended section 512 (b).

## VOCATIONAL REHABILITATION

Section 508: This section increases the authorization of appropriations for grants to the States and Hawaii for vocational rehabilitation of disabled persons by increasing the amount authorized for this purpose for each fiscal year by section 531 of the Social Security Act.

The House bill increased the amount authorized to be appropriated annually for vocational rehabilitation to \$2,938,000. The committee amendment further increases this amount to \$4,000,000. It also provides that the minimum allotment for any State shall be \$30,000, instead of \$10,000 as is provided in existing law, and provides an annual flat allotment to Hawaii of \$15,000 instead of the \$5,000 provided in existing law. The amendment made by your committee also provides an annual flat allotment to Puerto Rico of \$15,000 instead of the House provision which placed Puerto Rico on the same basis as the States, and increases the authorization of appropriations for administrative expenses.

#### APPROPRIATIONS FOR PUBLIC-HEALTH WORK

Section 509: This section of the bill increases the authorization of appropriations, for each fiscal year, for grants to States and their political subdivisions for public-health work, as provided in section 601 of the Social Security Act, from \$8,000,000 to \$12,000,000.

### TITLE VI—AMENDMENTS TO THE INTERNAL REVENUE CODE

#### FEDERAL INSURANCE CONTRIBUTIONS ACT

#### TAXES UNDER SECTIONS 1400 AND 1410 OF THE INTERNAL REVENUE CODE (FORMERLY SECTIONS 801 AND 804 OF THE SOCIAL SECURITY ACT)

Sections 601 and 604: Under the existing provisions of sections 1400 and 1410 of the Internal Revenue Code (formerly secs. 801 and 804, respectively, of the Social Security Act) the rate of tax on employees and the rate of tax on employers are each scheduled to increase on January 1, 1940, from 1 percent of the wages to 1½ percent, with a further increase of ½ percent at the expiration of succeeding 3-year periods until the maximum rate of 3 percent on employees and 3 percent on employers is reached in 1949. Under the amendment the increase scheduled for January 1, 1940, would be eliminated, and the rate of each tax would be as follows:

	<i>Percent</i>
For the calendar years 1939, 1940, 1941, and 1942.....	1
For the calendar years 1943, 1944, and 1945.....	2
For the calendar years 1946, 1947, and 1948.....	2½
For the calendar year 1949 and subsequent calendar years.....	3

A further change is made by this amendment. Sections 1400 and 1410 of the Internal Revenue Code now provide that the rate of tax applicable to wages is the rate in effect at the time of the performance of the services for which the wages are paid. This will unnecessarily complicate the making of returns and the collection of the taxes in later years when the rate of tax has been increased. For example, in 1943 the rate of tax increases from 1 percent to 2 percent. Thus, wages which are paid in 1943 for services performed in 1942 will be subject to the 1-percent rate, while wages paid in 1943 for services performed in that year will be subject to the 2-percent rate. Provision must therefore be made in the return for 1943 for the reporting of wages subject to the different rates, and, in auditing the returns, it will be necessary to ascertain not merely the time when the wages were paid and received, but also the year of the rendition of the services for which the wages are paid. If employers have failed to make the

proper distinction, many refunds and additional assessments will doubtless be necessary and confusion will result. Under the amendment the rate applicable would be the rate in effect at the time that the wages are paid and received without reference to the rate which was in effect at the time the services were performed.

**ADJUSTMENTS OF OVERPAYMENT AND UNDERPAYMENT OF EMPLOYEES' TAX, AND SPECIAL REFUNDS OF EMPLOYEE'S TAX**

Section 602 (a): Present section 1401 (c) of the Internal Revenue Code (formerly sec. 802 (b) of the Social Security Act) is designed to permit the employer to adjust, without interest, overpayments and underpayments of employees' tax without the necessity in the former case of requiring the filing of a claim for refund and in the latter case of the making of a demand by the collector for the additional tax. The existing provisions of the section require that the adjustment be made in connection with subsequent wage payments. The different types of situations obtaining at the time the error is discovered and should be corrected are numerous. For example, the employee may be continuously employed and receiving remuneration at regular intervals, or he may be entitled to no remuneration for some time to come, or if he is entitled to remuneration, it may not be taxable because his service is rendered temporarily, or for an indefinite time, in a foreign country, or because he has already received \$3,000 from the employer for services rendered during the calendar year, the maximum taxable remuneration under section 1426 (a) of the Internal Revenue Code (formerly sec. 811 (a) of the Social Security Act), or the employee's connection with the employer who made the error may have been severed. Moreover, undercollections require a procedure different from that in the case of overcollections. The use of the term "wage payments" causes difficulty since the term "wages" has a restricted meaning for the purpose of this tax. Furthermore, it may prove desirable in certain circumstances to provide for adjustments at times other than in connection with subsequent payments of remuneration to the individual. This amendment, by use of the word "remuneration" instead of "wage" and by leaving the manner and time of the adjustment to be prescribed by regulations, will enable the administrative officers to meet the varied situations which arise.

Section 602 (b): Your committee has added this subsection to section 602 of the House bill, which would add a new subsection (d) to section 1401 of the Internal Revenue Code. Under existing law, remuneration received by an employee with respect to employment during any calendar year is taxable up to and including \$3,000 received by the employee from each employer he may have during the year. Hence, an employee who has more than one employer may be required to pay the old-age-insurance employee's tax on aggregate wages in excess of \$3,000. The committee believe this bears harshly on the individual having more than one employer during a calendar year, and has accordingly incorporated an amendment which permits the employee to obtain a refund, without interest, of the tax paid on the aggregate in excess of \$3,000 earned after December 31, 1939, provided a timely claim is filed. For administrative reasons the committee has not disturbed the liability of the employee having more than one employer for tax on each \$3,000 of wages from each employer or the requirement that each employer shall deduct the

employee's tax from wages which he pays his employee within the \$3,000 maximum. No ground for relief exists in the case of the employer's tax. Each employer will and should be liable for tax with respect to the first \$3,000 paid to each employee notwithstanding the employee may be receiving, or may later in the year receive, wages from another employer. No refund is authorized in any case unless the employee's tax with respect to at least \$3,000 of wages for employment during the calendar year has been actually deducted and paid to the collector of internal revenue.

#### RECEIPTS FOR EMPLOYEES

Section 603: This section amends subchapter A of chapter 9 of the Internal Revenue Code (formerly title VIII of the Social Security Act) by inserting a new section in such subchapter. Subsection (a) of the new section requires every employer to furnish each employee with a written statement or statements, in a form suitable for retention by the employee, showing the taxable wages paid to the employee after December 31, 1939, for services rendered in his employ, and the amount of tax imposed by section 1400 with respect to such wages. In addition, the names of the employer and employee, and the period covered by the statement, are to be shown. Each statement, or receipt, must cover one or more, but not more than four, calendar quarters. Under existing Treasury regulations the employer is required to file a return for each calendar quarter with the collector of internal revenue, showing the amount of wages paid to each employee. By requiring the receipts to cover one or more calendar quarters, the employer is enabled, in making out such receipts, to use the amounts of wages of each employee as shown on the copies of the quarterly returns which the employer retains. Returns, under existing Treasury regulations, must be filed with the collector within the calendar month following the close of the quarter. The section gives employers an additional month within which to furnish their employees with the receipts. However, when an employee leaves the employ of the employer, the final receipt, covering the period from the termination of the period covered by the last preceding receipt furnished the employee, is to be given the employee when the final payment of wages is made to him. If the employer chooses, he may under the section furnish a receipt to an employee at the time of each payment of wages during a calendar quarter, in lieu of covering in a single receipt the total wages paid to the employee during such quarter.

Subsection (b) provides that any employer who willfully fails to furnish a statement to an employee in the manner, at the time, and showing the information, required under subsection (a), shall for each such failure be subject to a civil penalty of not more than \$5.

#### TAXES UNDER SECTION 1410 OF THE INTERNAL REVENUE CODE (FORMERLY SECTION 804 OF THE SOCIAL SECURITY ACT)

Section 604: See section 601, supra.

#### ADJUSTMENT OF EMPLOYERS' TAX

Section 605: The amendment made by this section to section 1411 of the Internal Revenue Code (formerly sec. 805 of the Social Security Act), relating to adjustments of employers' tax, is intended to ac-

complich the same purpose as the corresponding amendment to section 1401 (c) of the code, relating to adjustments of employees' tax. See section 602 (a), supra.

#### DEFINITIONS

Section 606: This section, effective January 1, 1940, amends section 1426 of the Internal Revenue Code, containing definitions applicable in the case of the old-age insurance taxes.

##### *Definition of Wages.*

Section 1426 (a): This subsection continues the present definition of wages, clarifies it in certain respects, and excludes certain payments heretofore included. Paragraph (2) in the House bill excludes all payments made by the employer to or on behalf of an employee or former employee, under a plan or system providing for retirement benefits (including pensions) or disability benefits (including medical and hospitalization expenses), but not life insurance. Your committee have added an exclusion of payments on account of death (including life insurance) where it is clear that the employee while living does not have certain rights and options. Generally, such payments are excluded under existing law if the employee does not have those rights and options, but it is deemed desirable for purposes of certainty to provide an express exclusion. The payments under paragraph (2) of the House bill and under the bill, as amended, will be excluded even though the amount or possibility of such payments is taken into consideration in fixing the amount of remuneration and even though such payments are required, either expressly or impliedly, by the contract of employment. Since it is the practice of some employers to provide for such payments through insurance or the establishment and maintenance of funds for the purpose, the premiums or insurance payments and the payments made into or out of any fund will likewise be excluded from wages. Your committee has made no change in paragraphs (3) and (4) of the House bill. Paragraph (3), which merely clarifies existing law, expressly excludes from wages the payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of the employee's tax imposed by section 1400 of the Internal Revenue Code (formerly sec. 801 of the Social Security Act) and employee contributions under State unemployment compensation laws. Paragraph (4) excludes dismissal payments which the employer is not legally obligated to make.

##### *Definition of employment.*

Section 1426 (b): This term is defined to mean any service performed prior to January 1, 1940, which constituted employment as defined in this section prior to such date; and to mean any service performed after December 31, 1939, by an employee for the person employing him, irrespective of the citizenship or residence of either, (A) within the United States or (B) on or in connection with an American vessel (defined in subsection (h)) under a contract of service entered into within the United States or during the performance of which the vessel touches a port therein, if the employee is employed on and in connection with the vessel when outside the United States. No substantive change in existing law is effected by the introductory paragraph of this provision except the extension of the definition to include service on American vessels. This extension is designed to include, with the qualifications noted, all service which is attached

to or connected with the vessel (e. g., service by officers and members of the crew and other employees such as those of concessionaires). Individuals who are passengers on the vessel in the generally accepted sense, such as an employee of an American department store going abroad, will not be included because such service has no connection with the vessel. Service performed on or in connection with an American vessel within the United States will be on the same basis as regards inclusion as other service performed within the United States.

Under existing law service performed within the United States (which otherwise constitutes employment) is covered irrespective of the citizenship or residence of the employer or employee. The amendment makes clear that this will be true also in the case of maritime service covered by the amendment, regardless of whether performed within or without the United States. The basic reasons which caused the original coverage to be made without distinctions on account of citizenship or residence apply in the case of seamen. The number of foreign seamen who may be employed on American vessels engaged in trade is limited under our shipping laws.

The definition of the term "employment" under the amendment, as applied to service rendered prior to January 1, 1940, retains the exemptions contained in the present law. The definition applicable to service rendered on and after that date continues unchanged some of the present exemptions, revises others, and adds certain additional ones.

Paragraph (1) continues the exception of agricultural labor, but a new subsection (h) defines the term for purposes of the exclusion.

Paragraph (2) continues the present exception of domestic service in a private home, but adds to the exception such service in a local college club, or local chapter of a college fraternity or sorority (not including alumni clubs or chapters). Thus services of cook, waiter, chambermaid, and the house mother, performed for these local clubs and chapters, are exempt.

Paragraph (3) continues the present exception of casual labor not in the course of the employer's trade or business.

A new paragraph (4) excludes service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his parent. This exclusion is already contained in the Federal unemployment tax provisions of the existing law. The old paragraph (4), which excluded service performed by an individual who has attained the age of 65, is repealed. (See sec. 905 (a) of the bill, which makes such repeal effective January 1, 1939.)

Paragraphs (5) to (15), inclusive, are identical with the same paragraphs in section 209 (b) of the Social Security Act. For detailed analysis of such paragraphs see the explanation of such section 209 (b) in this report.

Section 1426 (c): This subsection relates to an employee who has both included and excluded service for the same employer during a pay period. It provides that if one-half or more of the services constitutes included employment, all of such service will be included; but that if less than one-half constitutes included employment, all will be excluded.

The provision does not apply to the service of an employee in a pay period if any of the service of the employee in the pay period is

covered under subchapter B of chapter 9 of the Internal Revenue Code (formerly the Carriers Taxing Act of 1937). The amendment proposed by your committee to the last sentence of this subsection is merely clarifying.

*Definitions of employee and employer.*

The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law which limits coverage to employees. This action of the committee renders unnecessary the new definition of employer which was contained in subsection (e) of section 1426 as passed by the House. Subsection (e) is therefore stricken, and subsequent subsections of section 1426 have been relettered.

Section 1426 (e) and (f), defining the terms "State" and "person," respectively, makes no change in the existing definitions of those terms.

*Definitions of American vessel and agricultural labor.*

Subsections (g) and (h) of section 1426 are identical with subsections (d) and (l) of section 209 of the Social Security Act. For detailed analysis see discussion of those subsections in this report.

SHORT TITLE

Section 607: This section inserts a new section in subchapter A of chapter 9 of the Internal Revenue Code which provides that the subchapter may be cited as the "Federal Insurance Contributions Act."

FEDERAL UNEMPLOYMENT TAX ACT

TAXES UNDER SECTION 1600 OF THE INTERNAL REVENUE CODE (FORMERLY SEC. 901 OF THE SOCIAL SECURITY ACT)

Section 608: This amendment changes the basis for determining tax liability under subchapter C of chapter 9 of the Internal Revenue Code (formerly title IX of the Social Security Act) from "wages payable" to "wages paid." That subchapter is thus brought into conformity with subchapter A of chapter 9 (formerly title VIII of the Social Security Act), which also imposes a tax on "wages paid." Wages, for the purpose of these taxes, are considered paid when they are actually paid, or when they are constructively paid, i. e., credited to the account of, or set apart for, the wage earner so that they may be drawn upon by him at any time although not then actually reduced to possession.

Under the existing law wages are "payable" with respect to employment during a calendar year, even though the amount of wages is not fixed and no right exists to enforce payment at any time during that year. Thus a bonus paid in 1939 for services performed in 1938 constitutes "wages payable" for 1938, even though the amount of the bonus may not have been known in 1938 and no obligation to pay it existed in that year.

In cases in which remuneration for services of an employee in a particular year is based on a percentage of profits, or on future royalties, the amount of which cannot be determined until long after the close of the year, the employer has been required to estimate unascertained

amounts and pay taxes and contributions on that basis. If he has overestimated, subsequent corrections on the return must be made with consequent refunds. If the employer has underestimated, additional taxes may become due and he may also be compelled to pay additional State contributions, which are usually not allowable as credit because not timely paid. The attendant difficulties and confusion cause a burden on employers and administrative authorities alike. The placing of this tax on the "wages paid" basis will relieve this situation.

With both the old-age-insurance tax and the unemployment-compensation tax on the wages paid basis, the keeping of records by employers will be simplified.

The new basis of taxation will apply to all wages for services rendered after the beginning of 1939. Insofar as the amendment would be retroactive with respect to the year 1939, it would not increase the tax liability of any taxpayer.

#### CREDIT AGAINST TAX

Section 609: This section relates only to the tax with respect to services rendered in 1939 and thereafter.

#### *Contributions to State unemployment funds.*

Section 1601 (a): The present section 1601 (a) of the Internal Revenue Code (formerly sec. 902 of the Social Security Act) provides that a taxpayer may credit against the Federal tax only contributions paid by him under a State law "with respect to employment," as defined in section 1607 of the Code (formerly sec. 907 of the act). Since the definition of employment in section 1607 restricts the meaning of the term to certain types of service, the taxpayer is not given credit for contributions made under a State law with respect to services not covered by the Federal law. Subdivision (1) eliminates the references in existing law to "employment," thus allowing the taxpayer to credit against the tax the contributions which he is required to pay, and which he actually pays, under a State law. The amendment also includes a requirement that credit shall be allowed only for contributions to an unemployment fund which has been maintained during the taxable year as specified in the amendment to section 1607 (f) of the Internal Revenue Code. (See sec. 614, *infra*.)

Subdivision (2) provides that credit shall be permitted against the tax for the taxable year only for the amount of contributions paid with respect to such year. This effects no substantive change in the present law.

Subdivision (3) liberalizes existing law by giving employers more time within which to pay their contributions to the State and secure credit therefor against the Federal tax. Under existing law credit is allowable only for contributions with respect to the taxable year paid to the State before the due date of the Federal return for such year. The amendment permits full credit for contributions paid on (as well as before) the due date. The amendment further permits a credit for contributions paid after the due date of the Federal return but on or before June 30 next following the due date, but this credit is not to exceed 90 percent of the amount which would have been allowable as credit on account of such contributions if they had been paid on or before the due date. For example, if an employer's gross liability for

Federal tax at the 3-percent rate is \$100, and his liability for the same year for State contributions is also \$100, and he paid such contributions on or before the due date of the Federal return, he would be entitled to the maximum credit (under the limitation provided in sec. 1601 (c)) of 90 percent of the Federal tax, or \$90, and his net Federal tax would be \$10. If, however, the employer paid the \$100 in contributions after the due date but not later than June 30 next following, his credit would be 90 percent of \$90, or \$81, and his net Federal tax would be \$19. No credit is allowable for contributions paid after June 30.

Thus, substantial relief is given employers for 1939 and future years. The Committee on Finance agrees with the House that further liberalization of the conditions under which this credit would be allowable might endanger the orderly functioning of the system. It is desirable not to remove the aid provided in existing law to the State unemployment-compensation systems which has been secured through the inducement to employers to pay their State contributions promptly. Furthermore, any change should be avoided which would impede the audit of the Federal returns or delay final determination of the taxpayer's liability beyond a reasonable time after the returns are filed. In proposing this amendment consideration has been given these factors as well as to the need for liberalization in favor of the taxpayers.

Certain exceptions to the foregoing general rule are made in the amendment, however, to meet cases of genuine hardship.

Subdivision (3) removes the time limitation for payment of State contributions in those cases where the assets of the taxpayer are in the custody or control of a court at any time beginning with the due date and ending with the next following June 30, both dates inclusive.

Subdivision (4) grants relief in cases of payments made through mistake under the wrong unemployment-compensation law. In such a case payment under the proper State law with respect to the remuneration in question will be deemed, for the purposes of credit against the Federal tax, to have been made on the date of the erroneous payment. If the taxpayer's experience under the law of the wrong State had entitled him to cease paying any contributions for services subject to that law and by reason thereof the taxpayer had actually paid no contributions with respect to the remuneration in question, payment to the proper State will be treated, for such tax-credit purposes, as having been made on the date on which the Federal tax return was actually filed.

Subdivision (5) provides for refund of any tax (including any penalties and interest) which has been collected but with respect to which credit allowable under this section has not been taken. The law (including statutes of limitations) applicable in the case of erroneous or illegal collection of tax will apply to such refunds. No interest will be paid on any such refund.

#### *Additional credit.*

Section 1601 (b) (formerly section 909 (a) of the Social Security Act): This amendment changes in some particulars the existing law, relating to additional credit allowance.

It expressly conditions the allowance of an additional credit upon certification of the State law under section 1603 (c) of the Internal Revenue Code (formerly section 903 (b) of the Social Security Act)

and under the proposed amendment to section 1602 (c). (See section 610, *infra*.)

It extends the additional credit to reduced rates of contributions required under a State law with respect to employment not covered by the Federal tax, thus bringing this subsection into conformity in that regard with the proposed amendment of subsection (a) (relating to contributions to State unemployment funds).

Under the amendment, additional credit allowance will be based on the difference between the amount of contributions the taxpayer was required to pay under the State law and the amount he would have paid if throughout the taxable year he had been subject to the highest rate applied under the State law in the taxable year to any employer, or to a rate of 2.7 percent, whichever rate is lower. This change, in addition to measuring the credit by the applicable percent of the pay roll with respect to which contributions are required under the State law, also eliminates the possible necessity for measuring additional credits in terms of periods of less than 1 year. The elimination of the new section 1602 (b) of the code, contained in the House bill, has made unnecessary the House bill amendment of this section, establishing only 2.7 percent of pay roll as the measure for additional credit allowances.

*Limit on total credit.*

Section 1601 (c) restates the existing law limiting total credits against the Federal tax to not in excess of 90 percent of such tax. Since both the provision with respect to credits for contributions actually paid and the provisions with respect to additional credits are now included in one section of the law as subsections (a) and (b), respectively, it is unnecessary to include the limitation separately in respect to each subsection.

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

Section 610: This subsection amends the provisions of existing law (sec. 1602 of the Internal Revenue Code; formerly section 910 of the Social Security Act) relating to the requirements with respect to additional credit allowance.

The terms "employers," "employment," and "wages," which are defined in section 1607 and have special meanings not applicable here, are replaced by terms such as "persons having individuals in their employ," "services," and "remuneration," in order to make the requirements of this subsection more easily understandable in their application to State laws whose coverage differs from that of the Federal law. The phrase "person (or group of persons)" has been used in the standards and definitions with respect to all types of State funds, to make clear that a State law may measure, for individual experience-rating purposes, either an individual employer's record, or may permit two or more employers to combine their records and be treated, for experience-rating purposes, as if they were a single legal entity. Several verbal changes are suggested in this subsection in the interest of clarity.

In order to facilitate the administration of provisions in State laws allowing variations in rates of contributions, the term "computation date," defined in subsection (c) (7) of this section of the code, has been adopted, and the phrase "year preceding the computation date" substituted for terms such as "preceding year" and "year," to permit

the States to compute reduced rates as of a date prior to the date on which such reduced rates will become effective.

*State standards.*

The House bill amended section 1602 (a) of the code by adding a new standard with respect to the allowance of additional credit, which requires that irrespective of the type of fund maintained under the State law, the State law will contain provisions whereby variations in rates of contributions as between different employers will be so computed as to yield, with respect to each year, a total amount of contributions substantially equivalent to 2.7 percent of the total pay rolls of employers, subject to the contribution requirements of the State law. Your committee has deleted this new standard because it believes that at this time, the addition of a new standard with respect to individual employer-experience rating is premature.

Paragraph (1): In order to permit States which have pooled fund unemployment compensation laws to allow variations in rates of contributions at an earlier date, the committee has changed this paragraph as amended in the House bill, to permit the allowance of reduced rates of contributions under pooled fund laws on the basis of one rather than three years of experience by an employer with respect to unemployment or other factors bearing a direct relation to unemployment risk, but only after compensation has been payable under the State law with respect to such employer for one year. In other respects this paragraph incorporates the standards of existing law applicable to a pooled fund or partially pooled account, except that the phrase "years of compensation experience" in the present law has been replaced by a broader phrase permitting the use of an employer's "experience with respect to unemployment" or an employer's experience with respect to "other factors bearing a direct relation to unemployment risk" as a basis for individual-experience rating under a pooled fund. This change is made in order to extend the possible bases by which State laws may measure eligibility for reductions in employers' rates of contributions to a pooled fund, thus adding flexibility to the present law. Because of this change, the definition of the phrase "year of compensation experience" in subsection (c) of this section of the code is no longer necessary.

Paragraphs (2), (3), and (4): The reserve requirements with respect to reserve accounts (under the amended new paragraph (3) to become effective January 1, 1942) and guaranteed employment accounts have been restated in terms of 2½ percent of the pay roll for 3 years, rather than 7½ percent of the pay roll for 1 year. The term "pay roll" includes only the pay roll subject to the contribution requirements of the State law. This basis of measuring an employer's reserve or guaranteed employment account is more equitable from both the point of view of the employer and the State, since it permits the averaging of pay-roll experience over 3 years and avoids the unreasonable fluctuations in rates which may occur if pay rolls are substantially increased or decreased for a particular year. Because the standard rate of contributions under most laws is 2.7 percent (a very few State laws require a standard rate of 3 percent), employers could not accumulate a reserve equal to 7½ percent of their annual pay roll in less than 3 years, except in very unusual situations. Hence, it is believed that the change in the reserve requirement to 2½ percent of pay

rolls for 3 years in place of 7½ percent of pay roll for 1 year will not, in practical effect, alter the present reserve requirements. The additional requirement with respect to 3 years of contributions is deemed necessary to clarify the provision relating to reserves equal to 2½ percent of the pay roll for 3 years. Unless the employer has actually been subject to the contribution requirements of the State law for 3 years, the provision measuring the reserve in terms of 2½ percent of pay rolls for the 3 preceding years would operate to reduce the reserve requirements. Under these two paragraphs, an employer may not be permitted a reduced rate of contributions to his guaranteed employment account unless he has fulfilled his guaranty with respect to the preceding year, and an employer may not be permitted a reduced rate of contributions to his reserve account unless compensation has been payable from his account throughout the preceding year.

Paragraph (4) incorporates the new standards with respect to individual reserve accounts. In order to permit States maintaining such accounts to conform therewith without incurring the expense of special legislative sessions, these new standards will not become effective until January 1, 1942. Prior to that date, the standards in paragraph (3), which incorporate the present law, will be applicable.

The House bill added a new subsection (b) to section 1602 of the code, under which a State would be permitted to adopt either of two alternative courses of action if its law meets the standards set forth in paragraphs (1) and (2) of the new subsection: (1) It might reduce all employers' rates uniformly; or (2) it might vary individual employers' rates of contributions under experience-rating provisions which comply with the applicable standards in paragraph (2) or (3) or (4) of subsection (a) of this section as amended in the House bill, but without so calculating the respective rates as to secure an annual yield of an amount substantially equivalent to 2.7 percent of the State pay roll, the requirement of paragraph (1) of subsection (a) of this section as amended in the House bill. The Finance Committee has deleted this new subsection because it believes that the States' short experience in the payment of compensation and lack of experience in the actual operation of their present provisions for variations in rates of contributions does not warrant substantial changes in the Federal standards.

*Certification by the Board with respect to additional credit allowance.*

Section 1602 (b): This is a new subsection, requiring the Social Security Board to certify to the Secretary of the Treasury, in the same manner as it certifies State laws under section 1603 (c), State laws which it finds comply with the requirements of subsection (a) of this section. Provision is made for partial certification where two kinds of funds are maintained under the same State law, one of which fails to comply with subsection (a) of this section, or where a contribution is divided between two kinds of funds under a State law, so that additional credits will be allowed only with respect to reduced rates allowed in compliance with the requirements of this section.

Under these provisions a State law which complies in all respects with the requirements of this section will receive an unqualified certification. In some States, provision is made for the maintenance of two parallel systems (such as a reserve account system and a guaranteed employment account system). In such States, some

employers may be covered by the one system and other employers may be covered by the other. In such States there would be no difficulty in certifying one system, even though the other failed to comply with the requirements of this section, and the Board would accordingly be directed to do so by paragraph (2) of this subsection. In other States, contributions with respect to particular wage payments are required to be divided between two kinds of funds (such as the requirement that a part of each employer's contribution be credited to his own reserve account and a part to a "partially pooled" fund which is operated as a reinsurance fund). If in this type of situation the provisions of the State law with respect to one or the other such fund do not comply with the requirements of this section, the Board is directed to make such certification as will permit the allowance of additional credits only with respect to those reduced rates which have been allowed in accordance with the requirements of this section.

In addition, this new subsection includes a paragraph requiring the Social Security Board to advise the States, in the same manner as it advises the States of its findings under section 1603, whether or not their laws comply with the requirements of this section; after finding such compliance, the Board may thereafter deny certification of a State law for additional credit purposes only after prior notice and opportunity for hearing to the State, and only if it finds the State law no longer contains the applicable provisions specified in subsection (a) or the State has failed to comply substantially with any such provision. The present subsection (b) of this section is eliminated because its purpose is achieved by the foregoing provisions.

#### *Definitions.*

Section 1602 (c): Paragraphs (1) and (4) of this subsection are amended to make clear that from a particular employer's reserve account or guaranteed employment account, all compensation payable on the basis of services performed for him and only compensation payable on the basis of services performed for him, is to be paid. This incorporates in part the exception clause in the present definition of a pooled fund, i. e., that compensation may not be paid from a partial pool or reinsurance fund unless the reserve account or guaranteed employment account of the employer on the basis of whose services the benefit claimant had earned his benefit rights, is exhausted or terminated.

The present paragraph (2) is revised and divided into paragraphs (2) and (3) in order to distinguish more clearly between a fully pooled fund and a partially pooled (or reinsurance) fund. The new paragraph (3) permits the maintenance of a partially pooled fund in connection with a guaranteed employment account, as well as in connection with a separate reserve account. The definition of the partially pooled account also makes clear that a State may, without endangering its compliance with the definitions of the term "reserve account" and "guaranteed employment account," provide for transfers from reserve accounts or guaranteed employment accounts to a partially pooled account. Several State laws now provide for such transfers.

Paragraph (4) (old paragraph (3)) amends the present law to permit guarantees of employment to be operative only with respect to individuals who continue to be available for suitable work in the guaranteed establishment. This provision is deemed necessary because

under the present provision it is not clear whether employers are relieved from their guarantees with respect to individuals who quit voluntarily, or are unable to work because of some incapacity, or are out on strike, etc. This paragraph is also amended to make clear the general understanding with respect to its requirements concerning the probationary service period, i. e., that the probationary period must be served within a continuous period immediately following the employee's first week of service and may not be claimed repeatedly with respect to intermittent periods of employment which never exceed 12 consecutive weeks. The last clause of this definition is amended to clarify the point that guaranteed remuneration and unemployment compensation are not the same, and that the guaranteed remuneration is not to be payable out of the guaranteed employment account.

Paragraph (5) (old par. (4)) deletes the definition of the term "year of compensation experience," because that term is no longer used in paragraph (1) of section 1602 (a). The definition of the term "year," in this paragraph, is designed to permit States to allow reduced rates on the basis of 12 consecutive months, as well as on the basis of a calendar year.

Paragraph (6), defining the term "balance," is a new definition added to make clear that the amount of the reserve required to be accumulated by employers with respect to whom a reserve account or a guaranteed employment account is maintained, is to be made up of payments by such employers and may not be made up of employee contributions or funds from other sources. If employee contributions are required under a State law which provides for the maintenance of reserve accounts or guaranteed employment funds, such contributions may be payable into the reinsurance fund. The exception contained in this definition, which permits the inclusion within a "balance" of payments other than payments by employers if made to a reserve account or guaranteed employment account prior to January 2, 1940, is designed to relieve the States of complicated computations where payments, other than payments by employers, have been paid to such accounts during early months of the State's experience.

Your committee has advanced this date one year beyond that prescribed in the House bill in order to avoid a hardship in one State.

Paragraph (7) defines the term "computation date" to include any date occurring within 27 weeks prior to the date that a reduced rate goes into effect. As above indicated, this provision is designed to give the States ample time within which to make their computations with respect to variations in rates of contributions. Such computations are to be made at least once in each calendar year.

Paragraph (8), defining the term "reduced rate," is designed to make clear that the requirements of subsection (a) are not applicable to a reduction from an increased rate to a standard rate, i. e., situations in which employers with bad employment experience have been required to pay increased rates and are subsequently permitted to pay the standard or normal rate.

Section 610 (b) of the House bill has been rendered unnecessary by the committee amendment deleting from the House bill, the new Federal standard incorporated in section 1602 (a) (1) of the code.

## PROVISIONS OF STATE UNEMPLOYMENT COMPENSATION LAWS

Section 611: The changes made in paragraphs (1), (3), and (4) of section 1603 (a) of the Internal Revenue Code (formerly sec. 903 (a) of the Social Security Act) by this section correspond to those made in paragraphs (2), (4), and (5) of section 303 (a) of the Social Security Act by section 302, supra.

## EXTENSION OF TIME FOR FILING TAX RETURNS UNDER SUBCHAPTER C OF CHAPTER 9 OF THE INTERNAL REVENUE CODE

Section 612: This section amends section 1604 (b) of the Internal Revenue Code to authorize a longer extension of time for filing the return of the Federal unemployment tax. Existing law permits an extension of as much as 60 days. The amendment would provide an additional 30 days, or 90 days in all. The extensions under section 1604 (b) are granted under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. An employer finding it impossible to make his return on January 31, the due date prescribed in section 1604 (a), or to pay his State contributions by that date, may make application in accordance with such rules and regulations for an extension of time for filing his Federal return. If granted, the employer has until the extended due date, as granted, to make his return and pay his State contributions. No delinquency penalty will be incurred for late filing and no loss of credits will be suffered if the return is filed, and the contributions paid to the State, on or before such extended due date.

## INTERSTATE OR FOREIGN COMMERCE AND FEDERAL INSTRUMENTALITIES

Section 613: This section designates existing section 1606 of the Internal Revenue Code (formerly sec. 906 of the Social Security Act) as subsection (a). A clarifying amendment to the provision makes it clear beyond any possible doubt that an employer engaged in foreign commerce is on the same basis as respects authority of a State to require payments into an unemployment fund as employers engaged in interstate commerce.

This section also amends section 1606 by adding subsections (b) and (c), relating to Federal instrumentalities, and (d), relating to employment on lands held by the Government.

Subsection (b) as passed by the House confers on State legislatures authority to require instrumentalities of the United States (except those wholly owned by the United States or exempt from the taxes imposed by sections 1410 and 1600 of the Internal Revenue Code (formerly secs. 804 and 901, respectively, of the Social Security Act) by any other provision of law) to comply with State unemployment compensation laws. Since only the unemployment tax is involved, your committee has stricken from the House bill the reference to the old-age tax imposed by section 1410. Under this amendment the States would be able to cover under their unemployment compensation systems national banks and certain other Federal instrumentalities. Protection against any possible discrimination against instrumentalities of the United States is afforded by the two provisos, which make the permission to require compliance with the

State law conditional upon equality of treatment and upon the approval and certification of the State law under section 1603 of the Internal Revenue Code (formerly sec. 903 of the Social Security Act).

Subsection (c) makes provision for examination by the Comptroller of the Currency of returns and reports made to the States by national banks.

Subsection (d) authorizes the States to cover under their unemployment compensation laws services performed upon land held by the Federal Government, such as services for hotels located in national parks.

#### DEFINITIONS

Section 614: This section, effective January 1, 1940, amends section 1607 of the Internal Revenue Code, containing definitions applicable in the case of the Federal unemployment tax.

Section 1607 (a): *Definition of employer.* The House made no change from existing law in this definition. Your committee have inserted a clarifying amendment providing expressly that, in determining whether a person employs eight or more employees, only those employees employed in employment (as defined in sec. 1607 (c)) are to be counted.

#### *Definition of wages.*

Section 1607 (b): This subsection continues the present definition of wages, clarifies it in certain respects and excludes certain payments heretofore included. Paragraph (1) excludes that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year. Paragraph (2) in the House bill excludes all payments made by the employer to or on behalf of an employee or former employee, under a plan or system providing for retirement benefits (including pensions), or disability benefits (including medical and hospitalization expenses), but not life insurance. Your committee has added an exclusion of payments on account of death (including life insurance) where it is clear that the employee while living does not have certain rights and options. Generally, such payments are excluded under existing law if the employee does not have those rights and options, but it is deemed desirable for purposes of certainty to provide an express exclusion. The payments under paragraph (2) of the House bill and under the bill, as amended, will be excluded even though the amount or possibility of such payments is taken into consideration in fixing the amount of remuneration and even though such payments are required, either expressly or impliedly, by the contract of employment. Since it is the practice of some employers to provide for such payments through insurance or the establishment and maintenance of funds for the purpose, the premiums or insurance payments and the payments made into or out of any fund will likewise be excluded from wages. Your committee has made no change in paragraphs (3) and (4) of the House bill. Paragraph (3), which merely clarifies existing law, expressly excludes from wages the payment by an employer (without deduction from the remuneration of, or other reimbursement from, the employee) of the employee's tax imposed by section 1400 of the Internal Revenue Code (formerly sec. 801 of Social Security Act) and

employee contributions under State unemployment compensation laws. Paragraph (4) excludes dismissal payments which the employer is not legally obligated to make.

*Definition of employment.*

Section 1607 (c): The definition of the term "employment" under the amendment, as applied to service rendered prior to January 1, 1940, retains the exemptions contained in the present law. The definition applicable to service rendered on and after that date continues unchanged some of the present exemptions, revises others, and adds certain additional ones. No substantive change in existing law is effected by the introductory paragraph of the definition.

Paragraph (1) continues the exception of agricultural labor, but a new subsection (1) defines the term for purposes of the exclusion.

Paragraph (2) continues the present exception of domestic service in a private home, but adds to the exception such service in a local college club or local chapter of a college fraternity or sorority (not including alumni clubs or chapters). Thus services of cook, waiter, chambermaid, and the housemother, performed for these local clubs and chapters, are exempt.

Paragraph (3) adds an exception of casual labor not in the course of the employer's trade or business. This exception is already contained in amended section 209 (b) of the Social Security Act and amended section 1426 (b) of the Internal Revenue Code.

Paragraph (4) continues the existing exception of service performed as an officer or member of the crew of a vessel on the navigable waters of the United States.

Paragraph (5) continues the existing exception of service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother.

Paragraph (6) continues the exemption of service performed in the employ of the United States, but with respect to instrumentalities of the United States, limits the exemption to those instrumentalities which are (A) wholly owned by the United States or (B) exempt from the tax imposed by section 1600 of the Internal Revenue Code (formerly sec. 901 of the Social Security Act) by virtue of any other provision of law. The change in this provision brings within the unemployment tax provisions certain Federal instrumentalities not falling within clause (A) or (B) above, such as national banks.

Paragraph (7) continues the exemption of service for State governments, their subdivisions and instrumentalities, but limits the exemption with respect to instrumentalities so that it applies only to an instrumentality which is wholly owned by a State or political subdivision or which would be immune from the tax imposed by section 1600 of the Internal Revenue Code (formerly sec. 901 of the Social Security Act) by the Constitution. The amendment thus narrows the present exemption and in no case broadens it.

Paragraph (8) continues the exemption of religious, charitable, scientific, literary, or educational organizations, but brings the language of the exemption into conformity with the corresponding exemption from income tax under section 101 (6) of the Internal Revenue Code, by adding a specific disqualifying clause applicable where any substantial part of the activities of the organization is

carrying on propaganda or otherwise attempting to influence legislation.

Paragraph (9) excepts services of employees covered by the railroad unemployment insurance system. This provision leaves unchanged the exemption of the service of an individual in the employ of an employer subject to such system even though the individual receives remuneration in a form (e. g., tips) not recognized as compensation under the Railroad Unemployment Insurance Act, and leaves unchanged the inclusion of service in case it is performed by an employee in the segregable nonrailroad activities of an employer where segregation of the railroad activities from nonrailroad activities is found necessary in the interpretation and administration of the laws relating to the social security system and the railroad unemployment insurance system.

Paragraphs (10) to (13), inclusive, are identical with the same paragraphs in section 209 (b) of the Social Security Act. For detailed analysis see the explanation of such paragraphs in this report.

Paragraph (14) eliminates from coverage insurance agents and solicitors if the remuneration for which they perform their services is on a commission basis solely. If any part of such remuneration is a fixed salary the agent or solicitor is covered and the tax is computed on the basis of his aggregate remuneration (for example, salary or salary plus commissions). No similar exclusion is made from coverage under the Federal Insurance Contributions Act.

Paragraph (15) is identical with paragraph (15) of section 209 (b) of the Social Security Act. For detailed analysis see the explanation of that section in this report.

Section 1607 (d): This section relates to an employee who has both included and excluded service for the same employer during a pay period. It provides that if one-half or more of the services constitutes included employment, all of such service will be included; but that if less than one-half constitutes included employment, all will be excluded. The provision does not apply to the service of an employee in a pay period if any of the service of the employee in the pay period is covered under the railroad unemployment-insurance system. The amendment made by your committee to the last sentence is merely clarifying.

Section 1607 (e), defining "State agency," makes no change in the existing definition of that term.

*Definition of unemployment fund.*

Section 1607 (f): This definition is amended by adding two new sentences. The first of these added sentences is a clarifying amendment providing that all sums standing to the credit of the State in the (Federal) unemployment-trust fund and money withdrawn from that fund by the State but unexpended shall constitute a part of the State fund. This removes any possible doubt whether such moneys remain a part of the State fund. The second added sentence provides that an unemployment fund shall be deemed to be maintained during a taxable year only if no part of the moneys of such fund was expended for purposes other than payment of unemployment compensation and refunds of sums erroneously paid into the fund. This provision, in conjunction with an amendment to section 1601 (a) (see *supra*, sec. 609), makes it clear that an employer is entitled to credit against the Federal tax only so long as the State uses its fund for a proper purpose.

*Definition of contributions.*

Section 1607 (g): This provision is changed so as to avoid use of defined terms and thus to include in the term "contributions" payments required by a State law with respect to services not covered by the Federal law.

*Definition of compensation.*

Section 1607 (h): No change in existing law is made in this definition.

*Definition of employee.*

Section 1607 (i): The term "employee" is defined as in existing law to include an officer of a corporation.

By the amendment to subsection (c), contained in paragraph (10) (A) thereof, uncompensated officers of any organization exempt from income tax under section 101 of the Internal Revenue Code are excluded from the count in determining whether the organization is an employer of eight or more and liable for the tax. However, uncompensated officers of corporations not so exempt are not excluded for purposes of such determination merely because they are uncompensated.

Section 1607 (j) and (k), defining the terms "State" and "person," respectively, make no change in the existing definitions of those terms.

*Definition of agricultural labor.*

Section 1607 (l) is identical with section 209 (l) of the Social Security Act. For detailed analysis see discussion of that section in this report.

Section 615: This section inserts a new section in subchapter C of chapter 9 of the Internal Revenue Code which provides that the subchapter may be cited as the "Federal Unemployment Tax Act."

## TITLE VII—AMENDMENTS TO TITLE X OF THE SOCIAL SECURITY ACT

## CHANGE IN REQUIREMENTS FOR STATE PLANS FOR AID TO THE BLIND

Section 701: This section amends section 1002 (a) of the Social Security Act. Section 1002 (a) sets out certain basic requirements which a State plan for aid to the blind must meet in order to be approved by the Social Security Board.

Sec. 701 (a) contains two amendments to clause (5). One relates to the requirement of "proper" administration and the other concerns the inclusion in State plans, after January 1, 1940, of provisions for personnel standards on a merit basis. These amendments are identical with those made to clause (5) of section 2 (a) of the Social Security Act by section 101 of the bill.

Section 701 (b) adds a new clause, numbered (8), which is effective July 1, 1941. Under this clause the State plan must provide that the State agency shall, in determining need, take into consideration any income and resources of an individual claiming aid to the blind. It also adds a new clause, numbered (9), effective July 1, 1941, which requires that the State plan must provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of aid to the blind. These new provisions are similar to those added to title I of the Social Security Act by section 101 of the bill.

## PAYMENT TO STATES FOR AID TO THE BLIND

**Section 702:** This section amends section 1003 of the Social Security Act.

Subsection (a) of section 1003 is amended so that its provisions will conform with section 1001 of the Social Security Act, which authorizes appropriations to enable States to furnish financial assistance to *needy* individuals who are blind.

Subsection (b) (2) is amended so as to provide that the Board, in making grants to States, shall reduce the amount to be paid to any State for any quarter by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Board, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to the blind furnished under the State plan.

A proviso eliminates from consideration for the purpose of determining the amount of the offset any amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State for the funeral expenses of such deceased recipient, in accordance with the State public-assistance law upon which the plan is based. The provision is a new one and is similar in scope and operation to the one included by section 102 of the bill in section 3 (b) (2) of title I of the Social Security Act.

**Section 703:** This section amends section 1006 so as to conform its provisions with section 1001 of the Social Security Act, which authorizes appropriations to enable States to furnish financial assistance to blind individuals who are *needy*.

## TITLE VIII—AMENDMENTS TO TITLE XI OF THE SOCIAL SECURITY ACT

## DEFINITIONS

**Section 801:** This section amends the definition of "State" contained in section 1101 (a) of the Social Security Act so as to include Puerto Rico for the purposes of titles V (except sec. 531) and VI of such act.

The House proposal to extend coverage to salesmen who are not employees has been stricken out by the committee. It is believed inexpedient to change the existing law which limits coverage to employees. This action of the committee renders unnecessary the new definition of employer which was contained in paragraph (6) of subsection (a) of section 1101 as amended by the House. Paragraph (6) of subsection (a) of the present law therefore would remain unchanged under the committee proposal, and paragraph (7) of that subsection as added by the House, would be eliminated.

## PENALTY SECTIONS

**Section 802:** This section amends title XI of the Social Security Act by adding the following two sections:

*Disclosure of information in possession of Board.*

**Section 1106:** This section prohibits the disclosure, except pursuant to Board regulations, of any returns or statements filed with the Commissioner of Internal Revenue under title VIII of the Social

Security Act or the Federal Insurance Contributions Act, or regulations thereunder, which have been transmitted by the Commissioner to the Board. The prohibition against disclosure, except pursuant to Board regulations, also extends to any file, record, report, paper, or information obtained by the Board or any of its officers or employees in the course of official duties, and any such material obtained by any person from the Board or any of its officers or employees. Violation of the prohibition is punishable as a misdemeanor.

*Penalty for fraud and misuse of Board's name.*

Section 1107 (a) provides that anyone who makes any false representation, with intent to defraud any person, knowing the representation to be false, concerning the requirements of this act, or the Federal Insurance Contributions Act, or the Federal Unemployment Tax Act, shall be guilty of a misdemeanor.

Section 1107 (b) provides that anyone who, with intent to obtain information as to the date of birth, employment, wages, or benefits of any individual, falsely represents to the Board that he is such individual or the wife, parent, or child of such individual, or such individual's agent, or the agent of such wife, parent, or child, or falsely represents to any person that he is an employee or agent of the United States, shall be guilty of a misdemeanor.

#### TITLE IX—MISCELLANEOUS PROVISIONS

Section 901: This section makes clear that the amendment of title III of the Social Security Act and section 1603 of the Internal Revenue Code shall not be construed to amend or alter those provisions of the Railroad Unemployment Insurance Act which provide limited exceptions to the provisions of section 303 (a) (4) and (5) of the Social Security Act and 1603 (a) (3) and (4) of the Internal Revenue Code.

Section 902: Subsections (a), (b), (c), and (d) substantially liberalize the conditions of allowance of credit against the Federal unemployment tax imposed by title IX of the Social Security Act for the years 1936, 1937, and 1938. This committee agree with the House that the periodical granting of relief after the close of the taxable year affected would destroy the effectiveness of the conditions of allowance of the credit provided in permanent law and would prove costly in that it would call for the reopening and reconsideration of cases previously closed, the adjustment of claims, the abatement of assessments, and the payment of refunds. However, the need should not arise in the future for granting relief of the type provided in the present section, since substantial liberalization for 1939 and subsequent years is provided in section 609 of the bill, amending section 1601 (a) of the Internal Revenue Code.

Subsection (a) provides for the allowance of credit against the tax for 1936, 1937, or 1938, for contributions paid to the State for such year before the sixtieth day after the date of enactment of this act. Under section 810 of the Revenue Act of 1938 taxpayers were allowed credit against the tax for 1936 for contributions paid before July 27, 1938. Since a few taxpayers did not take advantage of that relief provision, it is felt desirable to include credit against the tax for 1936 in the present provisions. Thus, the same final date for paying contributions to the State, in order to secure credit against the tax—namely, the fifty-ninth day after the date of enactment of this act—is

provided for the tax for each of the 3 past years during which the tax has been in effect.

Under clause (2) of subsection (a) credit is allowable for contributions paid on or after the sixtieth day after the date of enactment of this act with respect to wages paid after the fortieth day after such date of enactment. This is designed to permit credit in cases in which, because the "wages payable" basis of the tax for the years 1936, 1937, and 1938 is still retained, credit would otherwise be lost since some wages are still being paid with respect to those years, and it may not be possible to estimate the amount thereof or the amount thereof may have been underestimated.

Clause (3) of subsection (a) permits credit for contributions paid to the State, without regard to the date of payment, if the assets of the taxpayer are in the custody or control of a fiduciary appointed by, or under the control of, a court of competent jurisdiction at any time during the 59-day period following the date of enactment.

Subsection (b) of this section makes the same provision with respect to the taxable years 1936, 1937, and 1938 as are made in section 1601 (a) (4) of the Internal Revenue Code, as amended, for the taxable year 1939 and thereafter for cases in which the taxpayer pays his contributions to the wrong State. (See sec. 609, supra.)

Subsection (c) preserves the definitions of section 907 of the Social Security Act, the 90-percent maximum credit against the Federal tax, and other provisions of title IX of the Social Security Act, essential to the operation of the relief provisions in subsections (a), (b), and (h) of this section for the taxable years 1936, 1937, and 1938.

Subsection (d) provides for refund of any tax (including penalties and interest) which has been collected but with respect to which credit is allowable under this section. The law (including statutes of limitations) applicable in the case of erroneous or illegal collection of tax will apply to such refunds. No interest will be paid on any such refund.

Subsection (e) of this section is designed to permit credit against the tax for the years 1940, 1941, and 1942 if in those years wages are paid for services rendered after December 31, 1938, but during a year prior to that in which payment occurs, and contributions with respect to such wages have not been credited against the tax for any prior taxable year. This provision relieves cases of hardship which might arise by reason of the change in the basis of the Federal tax from "wages payable" to "wages paid." (See sec. 608, supra.)

Subsection (f) is designed to make retroactive to the date of enactment of the Social Security Act the exemptions from Federal insurance and unemployment compensation coverage contained, respectively, in amended sections 209 (b) (11) and (12) of the Social Security Act and amended sections 1426 (b) (11) and (12) and 1607 (c) (11) and (12) of the Internal Revenue Code of service in the employ of foreign governments and certain of their instrumentalities. If any tax (including interest and penalties) has been collected with respect to service thus exempt, it is to be refunded, without allowance of interest, in accordance with the provisions of law (including statutes of limitations) applicable in the case of erroneous or illegal collection of the tax.

Subsection (g) provides that no lump-sum payments shall be made under the provisions of section 204 of the Social Security Act after the date of the enactment of this bill, except to the estate of an individual who dies prior to January 1, 1940.

In the case of individuals dying prior to January 1, 1940, the lump-sum payments provided under sections 203 and 204 of the present act will be payable to the estate (or to the persons entitled thereto under State law) whether application for such payment is filed prior to January 1, 1940, or on or after January 1, 1940.

Subsection (h) grants relief to taxpayers as well as States in cases in which the highest court of a State has held contributions paid under the State law with respect to the taxable years 1936 or 1937 not to have been required payments under the State law. For example, certain States enacted their unemployment compensation laws during the latter portion of 1936, levying contributions thereunder retroactively with respect to services performed on and after January 1 of that year. State taxpayers in good faith paid such contributions and claimed and received credit therefor against their Federal tax. If sometime later, the retroactive imposition of such contributions is held by the highest court of such State to have been invalid, such taxpayers may be entitled to refunds under the State law, but by virtue of that fact, such taxpayers also become liable for the full Federal tax with respect to such year.

Under this subsection, so much of any such payments as are not refunded to the taxpayer may be credited against the tax imposed by section 901 of the Social Security Act for the calendar year 1936 or 1937. Moreover, if, in the example cited, the State had paid benefits with respect to unemployment occurring during 1938, this section safeguards the status of the State law under section 903 of the Social Security Act by providing that so much of such payments as are not returned to the taxpayer shall be considered "contributions" for the purposes of that section. This section also postpones the periods of limitations prescribed by section 3312 (a) of the Internal Revenue Code in the case of the tax for 1936 or 1937 of any such taxpayer to whom any such payment is returned, until the last such payment is returned to the taxpayer.

Subsection (i) has been added by your committee. The Federal unemployment tax is a uniform tax on employers of eight or more levied at the rate of 3 percent of their taxable pay rolls. If the conditions prescribed by the law imposing such tax are satisfied, an employer may credit against the tax the amount of contributions, which he has paid or has been relieved from paying into a State unemployment fund, not exceeding 90 percent of the Federal tax against which such contributions are credited. If those conditions are not satisfied, the employer is liable for the full 3 percent tax. Several district courts have held that the collection of the full 3 percent Federal tax (without allowance of the 90 percent credit) from a bankrupt estate, which failed to qualify for credit, is not prohibited by section 57j of the Bankruptcy Act, as amended, which section provides that debts owing to the United States "as a penalty or forfeiture shall not be allowed." However, some district courts have held otherwise. Subsection (i) effects no substantive change in the law but is designed to set at rest the question involved by expressly providing that no part of the tax imposed by the Federal Unemployment Tax Act or by title IX of the Social Security Act shall be deemed a penalty or forfeiture within the meaning of section 57j of the Bankruptcy Act, as amended. The new subsection does not affect the liberalization in subsection (a), or in section 1601 (a) (3) of the Federal Unemploy-

ment Tax Act, of the conditions for credit in the case of an employer whose assets are in the custody of a court.

Section 903: This section amends section 1430 of the Internal Revenue Code by striking out the reference therein to section 3762 of the code and inserting in lieu thereof a reference to section 3661. The change merely corrects a typographical error made in section 1430 when the code was enacted.

Section 904: This amendment to the House bill merely conforms the reference in section 1428 of the Internal Revenue Code to the revision of the numbering of the paragraphs in section 1426 (b) of the code.

Section 905: This amendment to the House bill would include in the measure of the employer's and employee's taxes, wages paid, with respect to employment after December 31, 1938, to employees who have attained age 65. The liability of the employer for the employee's tax with respect to service performed prior to the enactment of this act is limited, however, to the amount of wages in the control of the employer at any time after 90 days after the enactment of the act. This confines the employer's liability for the employee's tax to situations where ample opportunity exists for the employer to deduct the employee's tax from his employee's wage.

Section 906: This is a new section which the committee has added to the House bill to relieve certain States from an undue hardship which would otherwise result from the failure on the part of such States' legislatures to enact necessary legislation within the time required under the Railroad Unemployment Insurance Act, approved June 25, 1938. Under that act, the Social Security Board is required to determine for each State certain sums described in the act as the State's "preliminary amount" and the State's "liquidating amount." These sums represent an approximation of the difference between the total amount collected by the State from railroad employers who have ceased to be subject to the State laws and have become subject to the Railroad Unemployment Insurance Act, and the total amount of compensation paid by the States on the basis of wages earned from such employers. The railroad act requires the Social Security Board to withhold administrative grants under title III of the Social Security Act from each State whose first regular legislative session after the date of enactment of that act did not authorize the timely filing by the State of its authorization and direction to the Secretary of the Treasury to transfer from the State's account the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund, the sums as determined by the Social Security Board.

The committee has been advised that in a limited number of States, regular legislative sessions which convened during 1939 have adjourned without enacting the necessary legislation required under the Railroad Unemployment Insurance Act and without making any provision for financing the administrative expenses of their unemployment compensation laws during the period with respect to which the Social Security Board is required to withhold from them grants under title III of the Social Security Act. In order to permit the continued administration of the unemployment compensation laws in each of these few States, this section extends until 30 days after the close of such States' next regular legislative session, the time within which such States may effect the necessary transfers of funds. The net effect of this postponement

will not deprive the Railroad Unemployment Insurance Account of any moneys to which it is entitled under the present provisions of the Railroad Unemployment Insurance Act. The section will apply only to States in which the first regular legislative session which began after June 25, 1938, has adjourned prior to 30 days after the date of enactment of this act. This limitation is necessary in order that States whose first regular legislative sessions which begin after June 25, 1938, and after the date of enactment of this act, will not be authorized to postpone the enactment of the legislation required under the Railroad Unemployment Insurance Act.

Section 907 is a new amendment proposed because in the case of persons 65 or over there may be benefit credits because of wages earned during any part of 1939. This amendment would provide that where the employee's tax has not been deducted from the employee over 65 and where the employer has not made any tax payment for his employment in 1939, deduction of an amount equal to the employee's tax without interest would be made from his monthly benefits or other benefits payable with respect to his wages.

