

## SOCIAL SECURITY ACT AMENDMENTS OF 1939

AUGUST 4, 1939.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. DOUGHTON, from the committee of conference, submitted the following

### CONFERENCE REPORT

[To accompany H. R. 6635]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6635) to amend the Social Security Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 4, 22, 23, 57, 58, 69, 70, 103, 104, 117, 118, 153, 154, 166, 168, 169, 176, 177, and 182.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 59, 60, 62, 63, 64, 65, 66, 71, 72, 73, 74, 76, 77, 78, 80, 81, 84, 85, 86, 87, 88, 89, 90, 91, 92, 94, 95, 96, 97, 98, 99, 100, 101, 102, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 155, 156, 158, 159, 160, 161, 162, 165, 167, 170, 171, 172, 173, 174, 175, 178, 179, and 181; and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods*; and the Senate agree to the same.

**Amendment numbered 40:**

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*“(14) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States); or*

And the Senate agree to the same.

**Amendment numbered 61:**

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agreed to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *and wildlife*; and the Senate agree to the same.

**Amendment numbered 67:**

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods*; and the Senate agree to the same.

**Amendment numbered 68:**

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods*; and the Senate agree to the same.

**Amendment numbered 75:**

That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods; and the Senate agree to the same.*

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods; and the Senate agree to the same.*

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*SEC. 508. (a) Section 531 (a) of such Act is amended by—*

*(1) Striking out "\$1,938,000" and inserting in lieu thereof "\$3,500,000".*

*(2) Striking out "\$5,000" and inserting in lieu thereof "\$15,000".*

*(3) Inserting before the period at the end thereof a colon and the following: "Provided, That the amount of such sums apportioned to any State for any fiscal year shall be not less than \$20,000".*

*(b) Section 531 (b) of such Act is amended by striking out "\$102,000" and inserting in lieu thereof "\$150,000".*

And the Senate agree to the same.

Amendment numbered 83:

That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment as follows:

On page 17, line 1, of the Senate engrossed amendments, strike out "\$12,000,000" and insert \$11,000,000; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

*"(14) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life*

(including service performed by any such individual as an ordinary incident to any such activity), except (A) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (B) service performed on or in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States); or

And the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *and wildlife*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate numbered 157, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *and wildlife*; and the Senate agree to the same.

Amendment numbered 163:

That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods*; and the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with amendments as follows:

On page 26, line 12, of the Senate engrossed amendments, strike out "old-age assistance" and insert *aid to the blind*; on page 96, line 3, of the House engrossed bill, strike out "clause (1) of"; in line 7, strike out "clause" and insert *subsection*; in line 21, strike out "clause (1) of"; and on page 97, lines 18 and 19, strike out ", increased by 5 per centum"; and the Senate agree to the same.

Amendment No. 180:

That the House recede from its disagreement to the amendment of the Senate numbered 180, and agree to the same with an amendment, as follows:

In addition to the matter proposed to be inserted by the Senate amendment, on page 36, line 2, of the Senate engrossed amendments insert the following new sentence:

*No interest shall be allowed or paid on the amount of any overpayment refunded or credited by reason of the provisions of this section.*

And the Senate agree to the same.

R. L. DOUGHTON,  
THOS. H. CULLEN,  
JOHN W. McCORMACK,  
JERE COOPER,  
ALLEN T. TREADWAY,  
FRANK CROWTHER,  
THOMAS A. JENKINS,

*Managers on the part of the House.*

WILLIAM H. KING,  
WALTER F. GEORGE,  
DAVID I. WALSH,  
ROBERT M. LA FOLLETTE, JR.,  
ARTHUR CAPPER,

*Managers on the part of the Senate.*

## STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 6635) to amend the Social Security Act, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: This amendment provides that on and after January 1, 1941, a State plan for old-age assistance in order to be approved by the Social Security Board must provide for financial participation by the State in an amount not less than \$10 each month with respect to each needy individual receiving old-age assistance for the month. There was no comparable provision in the House bill. The Senate recedes.

Amendment No. 2: The House bill stated that the State plan for old-age assistance in order to be approved by the Board must provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the proper and efficient operation of the plan. The Senate amendment struck out the parenthetical clause and inserted a new parenthetical clause which states that after January 1, 1940, such methods of administration shall include methods relating to the establishment and maintenance of personnel standards on a merit basis. The House recedes with an amendment which retains the Senate amendment but provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

Amendment No. 3: The House bill provided, as in existing law, that the Federal Government would match on a 50-50 basis the amounts expended by the State as old-age assistance and increased the amount up to which the Federal Government will contribute one-half from \$30 to \$40. The Senate amendment retains the \$40 maximum of the House bill, and provides that the Federal Government will contribute two-thirds of the expenditures for old-age assistance under the plan up to a State-wide average of \$15 per month for the needy individuals receiving such assistance, plus one-half of the excess over such amount up to the \$40 maximum. This amendment also changed the amount to be contributed by the Federal Government for administrative expenses from 5 percent of the Federal contribution to an amount equal to one-half of the total of the sums expended during any quarter as are found necessary by the Board for the proper and efficient administration of the State plan. It also states that in the case of any State which shall reduce the amount paid in such State in 1939 to its needy individuals for old-age assistance, such State shall not receive such increased amount but shall

receive from the Federal Government only one-half of the sums expended up to \$40. The Senate recedes.

Amendment No. 4: This is a technical amendment made necessary by amendment No. 3 changing the matching provisions from a 50-50 basis. The Senate recedes.

Amendments Nos. 5, 6, 7, 8, and 10: These amendments make clerical changes; and the House recedes.

Amendment No. 9: The House bill provided that the administrative expenses of the Social Security Board and the Treasury Department for the administration of title II and title VIII of the Social Security Act, and the Federal Insurance Contributions Act, should be estimated monthly by the chairman of the Board and the managing trustee of the Federal old-age and survivors trust fund. The managing trustee was directed to pay each month from the trust fund into the Treasury as miscellaneous receipts the amount so estimated. The Senate amendment provides that such amount shall be estimated quarterly and that such payments shall be covered into the Treasury as repayments to the account for reimbursement of expenses incurred in connection with the administration of such titles II and VIII and such Federal Insurance Contributions Act. The amendment also provides that such repayments shall not be available for expenditure but shall be carried to the surplus fund of the Treasury. If the payments made by the trust fund to the Treasury for such cost of administration were covered into the Treasury as provided in the House bill, the receipts and expenditures would be overstated in the account of the Treasury by the amounts so deposited. Collections, when originally received, are classified in the Treasury accounts as "social security taxes," and subsequently, under the House bill, a portion would be deposited as "miscellaneous receipts," thus overstating actual receipts. Also, when funds are expended from appropriations for such administration, such items would be shown as expenditures under "Social Security Board" and "departmental," and the reimbursements for such expenses from the trust fund would also be shown as expenditures, unless such items are deposited as repayments instead of miscellaneous receipts. The Senate amendment cures this administrative problem. The House recedes.

Amendment No. 11: The House bill provided for a small lump-sum death payment upon the death of a fully or currently insured individual, leaving no surviving widow, child, or parent, who would, on filing application in the month in which such individual died, be entitled to a benefit for such month under subsection (b), (c), (d), (e), or (f) of section 202. The Senate amendment struck out the reference to subsection (b) since this subsection deals with a wife's insurance benefit, which would not be applicable after the death of the primary individual. The House recedes.

Amendments Nos. 12 and 13: The House bill provided for the distribution of such lump-sum death payments and included in such distribution persons who may be entitled under the law of the State to share as distributees with the parents of the deceased. These Senate amendments eliminate this provision of the House bill, and also provide that when more than one parent is entitled to a payment, each of them would share equally. The House recedes.

Amendments No. 14, 15, 16, 17, and 18: The House bill provided 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 with 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. The Senate amendments 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 provide 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. They also strike out reference to reduction of a single benefit as superfluous. The House recedes.

Amendment No. 19: The House bill provided that whenever a reduction or increase was required under subsection (a) or (b) of section 203 and more than one benefit was payable for the month with respect to the wages of an individual, each of the benefits should be proportionately increased or decreased, as the case might be. The Senate amendment excepts the primary insurance benefit from any reduction under section 203 (a) or (c). The House recedes.

Amendments Nos. 20 and 21: These amendments are clarifying amendments providing that the deductions to be made from any payment or payments under title II shall be made in such amounts and at such time or times as the Board shall determine. The House recedes.

Amendments Nos. 22 and 23: The House bill provided that deductions would be made from a child's insurance benefit if such child was under 18 and over 16 years of age and he failed to attend school regularly. These Senate amendments were intended to make it clear that children serving as apprentices without pay shall be considered as attending school and are placed in the same category as children attending school. Since the Social Security Board has ample authority to care for this situation by regulation, it is not necessary to incorporate these provisions into the law. The Senate recedes.

Amendments Nos. 24 and 25: The House bill provided a penalty for failure to report the occurrence of an event specified in the bill which would cause a deduction in benefits. These Senate amendments require that such report be made by any individual who is in receipt of benefits subject to deduction, or is in receipt of such benefits on behalf of another individual. The House recedes.

Amendments Nos. 26 and 27: Under the House bill as under existing law, employees who worked for more than one employer in a year and who have a total salary from such employers of more than \$3,000 are taxable upon the first \$3,000 of such salaries from each employer. These Senate amendments provide that no more than \$3,000 total remuneration for any calendar year after 1939 is counted for benefit purposes. (See amendment No. 85 for special tax refund on such salaries in excess of \$3,000.) The House recedes.



Amendments Nos. 28, 31, 32, and 33: These are clerical amendments changing paragraph numbers. The House recedes.

Amendments Nos. 29 and 30: These amendments exclude from the definition of wages payments made by an employer under certain conditions on behalf of his employees on account of death (including life insurance) where it is clear that the employee, while living, does not have certain rights and options. These slight changes from existing law are effective as to wages from employment after 1939. The House recedes.

Amendment No. 34: This amendment makes a clarifying change. The House recedes.

Amendment No. 35: Under present law services performed by an individual after he attains age 65 are not counted for benefits under title II nor are they taxed under the Federal Insurance Contributions Act. The House bill provided that such services performed after 1939 would be counted as employment and taxed the wages for such services after such year. The Senate amendment provides that such services performed after 1938 by such an individual shall be counted as employment. (Amendment No. 173 taxes such wages and amendment No. 175 deducts from any benefit under title II an amount equal to 1 percent of any wages paid to any such individual for services performed in 1939 if taxes on such wages were not paid.) The House recedes.

Amendment No. 36: The House bill exempted from the definition of employment service performed in the employ of an agricultural or horticultural organization. The Senate amendment clarifies this exemption to make certain that these organizations are identical with agricultural and horticultural organizations exempt from income tax under section 101 (1) of the Internal Revenue Code. The House recedes.

Amendments Nos. 37 and 38. These amendments make a clarifying change to bring this provision into conformity with a similar provision contained in the Revenue Act of 1939. The House recedes.

Amendment No. 39: This amendment makes a clerical change. The House recedes.

Amendment No. 40: 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 the specified fishing activities. There was no comparable provision in the House bill. The House recedes with an amendment which exempts from coverage service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (a) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (b) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States).

Amendment No. 41: This amendment excludes service performed by an individual under the age of 18 in making street sales of news-

papers, and in making house-to-house deliveries of newspapers and shopping news, including handbills and other similar types of advertising material. It does not include the handling of newspapers and advertising material prior to the time they are turned over to the individual who makes the sale, the house-to-house, or other final distribution. There was no comparable provision in the House bill. The House recedes.

Amendments Nos. 42 and 43: These amendments make a clarifying change. The House recedes.

Amendment No. 44: This amendment places a top limit of \$250 on the average monthly wage upon which computation of the primary insurance benefit may be based. It will be impossible to exceed this average from employment after 1939 due to Senate amendment No. 27; nevertheless, 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. There was no comparable provision in the House bill. The House recedes.

Amendment No. 45: This amendment provides that the minimum primary insurance benefit shall be \$10. There was no comparable provision in the House bill. The House recedes.

Amendments Nos. 46, 47, 48, 49, 50, 51, and 52: The House bill set up an "average monthly wage" formula in terms of years. These Senate amendments set up such formula in terms of quarters. The House recedes.

Amendment No. 53: This amendment is complementary to amendment No. 35 and excludes from the divisor in determining the average monthly wage of an individual any quarter, after the quarter in which he attained age 65, occurring prior to 1939. The House recedes.

Amendment No. 54: This amendment is complementary to amendments Nos. 46 to 52. The House bill defined the term "fully insured individual" in terms of years and years of coverage. The House bill provided that in any case where an individual had at least 15 years of coverage he would always be a fully insured individual. The Senate amendment defined such term in quarters and quarters of coverage. It also provides that where an individual had at least 40 quarters of coverage (10 years) he would always be a fully insured individual. The House recedes.

Amendments Nos. 55 and 56: The House bill defined the term "wife" to mean a wife of an individual who was married to him prior to January 1, 1939, or, if later, prior to the date upon which he attained the age of 60; and defined the term "widow" (except when used in sec. 202 (g)) to mean 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. These Senate amendments eliminate 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. The House recedes.

Amendments Nos. 57 and 58: The House bill defined agricultural labor to include all services performed on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity. These Senate amendments struck out the words "connection with". The conference action restores such words; and the Senate recedes.

**Amendments Nos. 59, 60, 62, 63, and 66:** These amendments make clarifying changes to the definition of agricultural labor. The House recedes.

**Amendment No. 61:** This amendment includes in the definition of agricultural labor service performed on a farm with respect to other wildlife in the same manner and to the same extent as service performed with respect to furbearing animals. The House recedes with a clarifying amendment.

**Amendment No. 64:** This amendment includes within the term "agricultural labor" service performed in the employ of the owner or tenant or other operator of a farm, in connection with the maintenance of the tools and equipment on such farm. It also includes service performed in the employ of any such owner, tenant, or other operator in salvaging timber or clearing land of brush or other debris left by a hurricane. Both amendments are subject to the limitation contained in the bill that the major part of such service must be performed on a farm. The House recedes.

**Amendment No. 65:** This amendment includes as agricultural labor, in addition to the services included in the House bill, 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. The House recedes.

**Amendment No. 67:** This amendment is similar to amendment No. 2. The House bill stated that the Board should make no certification for payment to any State under title III of the Social Security Act unless it found that the law of such State approved by the Board included provision for such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due. The Senate amendment struck out the parenthetical clause and inserted a new parenthetical clause which provides that after July 1, 1941, such methods of administration shall include methods relating to the establishment and maintenance of personnel standards on a merit basis. The House recedes with an amendment which retains the Senate amendment but changes the date therein from July 1, 1941, to January 1, 1940, and provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

**Amendment No. 68:** This amendment provides for the establishment and maintenance of personnel standards on a merit basis similar to amendments Nos. 2 and 67. The House recedes with an amendment which retains the Senate amendment but provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

**Amendment No. 69:** The House bill increased from one-third to one-half the Federal share of the sums expended in a State for aid to dependent children. The House bill retained the provisions of existing law with respect to the amounts above which the Federal Government would not contribute, namely, \$18 a month for the first dependent child and \$12 a month with respect to each of the other

dependent children. The Senate amendment retained the increase of the share of the Federal contribution from one-third to one-half and changed the existing law by eliminating the present maxima and providing that the Federal share would be based on an average of \$18 multiplied by the total number of dependent children receiving aid for the month. The Senate recedes.

Amendment No. 70: The House bill amended the definition of the term "dependent child" to include children between the ages of 16 and 18 if found by the State agency to be regularly attending school. Present law includes only children under the age of 16. The Senate amendment includes nonremunerated apprentices in the same class as children regularly attending school with respect to the liberalization of the age limitation. The Senate recedes.

Amendment No. 71: This amendment makes a clerical change. The House recedes.

Amendment No. 72: This amendment increases the authorization of appropriations for grants to States for maternal and child health services for each fiscal year from \$3,800,000 to \$5,820,000. There was no comparable provision in the House bill. The House recedes.

Amendment No. 73: This amendment increases the amount authorized to be allotted to the various States in the proportion that live births bear to the total number of live births in the United States, from \$1,800,000 to \$2,800,000. The amendment also increases the amount authorized to be allotted according to the financial need of each State for assistance in carrying out its State plan from \$980,000 to \$1,980,000. The House recedes.

Amendment No. 74: This amendment makes a clerical change; and the House recedes.

Amendment No. 75: This amendment provides for the establishment and maintenance of personnel standards on a merit basis similar to amendments Nos. 2, 67, and 68. The House recedes with an amendment which retains the Senate amendment but provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

Amendment No. 76: This amendment increases the authorization of appropriations for grants to States for services to crippled children for each fiscal year from \$2,850,000 to \$3,870,000. There was no comparable provision in the House bill. The House recedes.

Amendment No. 77: This amendment amends section 512 of the Social Security Act by designating the existing law as subsection (a) and inserting 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). The 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 each State in need of services for crippled children and the cost of furnishing such services. These sums are to be allotted on a matching basis. The additional appropriation of \$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. The States are not required to match allotments from this latter appropriation. The House recedes.

Amendment No. 78: This amendment makes a clerical change; and the House recedes.

**Amendment No. 79:** This amendment provides for the establishment and maintenance of personnel standards on a merit basis similar to amendments Nos. 2, 67, 68, and 75. The House recedes with an amendment which retains the Senate amendment but provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

**Amendment No. 80:** This amendment makes a clarifying change in section 514 (a) of the Social Security Act. It also adds a new subsection (c) to such section 514 to provide the method of paying the additional amount to be allotted under amendment No. 77. The amendment also increases the authorization for child welfare services from \$1,500,000 to \$1,510,000 so that Puerto Rico may share equally with the States. There was no comparable provision in the House bill. The House recedes.

**Amendments Nos. 81 and 82:** The House bill increased the authorization for vocational rehabilitation from \$1,938,000 to \$2,938,000. The Senate amendment strikes out this provision in the House bill and inserted a provision increasing such authorization to \$4,000,000. The amendment also provides that the minimum allotment for any State shall be \$30,000 instead of \$10,000 as provided in existing law, and provides an annual flat allotment to Hawaii and Puerto Rico of \$15,000. The amendment also increases the authorization of appropriations for administrative expenses for vocational rehabilitation from \$102,000 to \$150,000. The House recedes with an amendment which increases the authorization for vocational rehabilitation to \$3,500,000 instead of \$4,000,000; places Puerto Rico in the same status as a State (see also amendment No. 166); and increases the minimum allotment for any State from \$10,000 to \$20,000 instead of \$30,000.

**Amendment No. 83:** This amendment increases the authorization of appropriations for each fiscal year for grants to States and other political subdivisions for public-health work from \$8,000,000 to \$12,000,000. There was no comparable provision in the House bill. The House recedes with an amendment increasing such authorization to \$11,000,000 instead of \$12,000,000.

**Amendment No. 84:** This amendment makes a clerical change; and the House recedes.

**Amendment No. 85:** 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 employees' tax on aggregate wages in excess of \$3,000. The Senate amendment 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. This amendment is complementary to amendment No. 27. There was no comparable provision in the House bill. The House recedes.

**Amendments Nos. 86 and 87:** These amendments exclude from the definition of wages payments made by an employer under certain conditions on behalf of his employees on account of death (including life insurance) where it is clear that the employee, while living, does not have certain rights and options. The House recedes.

**Amendment No. 88:** This amendment makes a clerical change; and the House recedes.

**Amendment No. 89:** The House bill exempted from the definition of employment service performed in the employ of an agricultural or horticultural organization. The Senate amendment clarifies this exemption to make certain that these organizations are identical with agricultural and horticultural organizations exempt from income tax under section 101 (1) of the Internal Revenue Code. The House recedes.

**Amendments Nos. 90 and 91:** These amendments make a clarifying change to bring this provision into conformity with a similar provision contained in the Revenue Act of 1939. The House recedes.

**Amendment No. 92:** This amendment makes a clerical change; and the House recedes.

**Amendment No. 93:** 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 the specified fishing activities. There was no comparable provision in the House bill. The House recedes with an amendment which exempts from coverage service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except (a) service performed in connection with the catching or taking of salmon or halibut, for commercial purposes, and (b) service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States).

**Amendment No. 94:** This amendment excludes service performed by an individual under the age of 18 in making street sales of newspapers, and in making house-to-house deliveries of newspapers and shopping news, including handbills and other similar types of advertising material. It does not include the handling of newspapers and advertising material prior to the time they are turned over to the individual who makes the sale, the house-to-house, or other final distribution. There was no comparable provision in the House bill. The House recedes.

**Amendments Nos. 95 and 96:** These amendments make a clarifying change; and the House recedes.

**Amendments Nos. 97 and 98:** The House bill extended coverage to certain salesmen who are not employees. The Senate amendment strikes out this extension of coverage and also strikes out the new definition of employer as such definition was rendered unnecessary if the extension of coverage to such salesmen is not retained in the bill. It is believed inexpedient to change the existing law which limits coverage to employees. The House recedes.

**Amendments Nos. 99, 100, 101, and 102:** These amendments make clerical changes; and the House recedes.

**Amendments Nos. 103 and 104:** The House bill defined agricultural labor to include all services performed on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with

raising or harvesting any agricultural or horticultural commodity. These Senate amendments struck out the words "connection with". The conference action restores such words; and the Senate recedes.

Amendments Nos. 105, 106, 108, 109, and 112: These amendments make clarifying changes to the definition of agricultural labor. The House recedes.

Amendment No. 107: This amendment includes in the definition of agricultural labor service performed on a farm with respect to other wildlife in the same manner and to the same extent as service performed with respect to fur-bearing animals. The House recedes with a clarifying amendment.

Amendment No. 110: This amendment includes within the term "agricultural labor" service performed in the employ of the owner or tenant or other operator of a farm, in connection with the maintenance of the tools and equipment on such farm. It also includes service performed in the employ of any such owner, tenant, or other operator in salvaging timber or clearing land of brush or other debris left by a hurricane. Both amendments are subject to the limitation contained in the bill that the major part of such service must be performed on a farm. The House recedes.

Amendment No. 111: This amendment includes as agricultural labor, in addition to the services included in the House bill, 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. The House recedes.

Amendments Nos. 113 and 114: Under the House bill, the additional credit allowance was based upon the amount, if any, by which contributions required to be paid by a taxpayer with respect to the taxable year were less than the contributions such taxpayer would have been required to pay if throughout the taxable year he had been subject under such State law to a rate of 2.7 percent. These Senate amendments were made necessary by reason of amendment No. 126 which eliminates the new section 1602 (b) of the Code contained in the House bill. These amendments base the additional credit allowance 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. The House recedes.

Amendment No. 115: The House bill amended section 1602 (a) of the Internal Revenue Code by adding a new standard with respect to allowance of additional credit, which required that, irrespective of the type of fund maintained under the State law, such law must 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 of pay rolls of employers subject to the contribution requirements of the State law. The Senate amendment deletes this new standard. The House recedes.

Amendments Nos. 116, 119, 120, 121, 122, 123, 124, and 125: These amendments make clerical changes; and the House recedes.

Amendments Nos. 117 and 118: Under the House bill, States which have pooled fund unemployment compensation laws would have been

allowed to vary rates of contributions and allow reduced rates of contributions on the basis of 3 years of experience by an employer with respect to unemployment or other factors bearing a direct relation to unemployment risk. The Senate amendments change the 3 years to 2 years and further provide that such reduction under pooled fund laws will be allowed only after compensation has been payable under the State law with respect to such employer for the 2 consecutive years immediately preceding the computation date. The Senate recedes.

Amendment No. 126: The House bill added a new subsection (b) to section 1602 of the Internal Revenue Code. Under this subsection a State would have been permitted to adopt either of two alternative courses of action if its law met 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 complied with the applicable standards in paragraph (2), (3), or (4) of subsection (a) of such section 1602, 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 Senate amendment deletes this new subsection. The House recedes.

Amendments Nos. 127, 128, 129, 130, 131, 132, 133, 134, 135, and 136: These amendments make clerical changes; and the House recedes.

Amendments Nos. 137 and 138: Under the House bill the term balance was defined 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. 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, 1939, is designed to relieve the States of complicated computations where payments, other than payments by employers, had been paid to such accounts during the early months of the State's experience. These Senate amendments advance the date 1 year beyond that prescribed in the House bill. The House recedes.

Amendment No. 139: Subsection (b) of section 610 of the House bill, which is deleted by this amendment, has been rendered unnecessary because of Senate amendment No. 115 which deleted from the House bill the average 2.7 percent contribution rate requirement. The House recedes.

Amendment No. 140: The House bill conferred on State legislatures the authority to require instrumentalities of the United States, except those wholly owned by the United States or exempt from the taxes imposed by section 1410 or 1600 of the Internal Revenue Code, to comply with State unemployment compensation laws. The Senate amendment strikes out the reference to the old-age tax imposed by section 1410 since only the unemployment tax imposed by section 1600 is involved. The House recedes.

Amendment No. 141: This is a clarifying amendment to make clear that in determining whether a person employs 8 or more employees, only those employees employed in employment (as defined



in sec. 1607 (c) of the Internal Revenue Code) are to be counted. The House recedes.

Amendments Nos. 142 and 143: These amendments exclude from the definition of wages payments made by an employer under certain conditions on behalf of his employees on account of death (including life insurance) where it is clear that the employee, while living, does not have certain rights and options. The House recedes.

Amendment No. 144: The House bill exempted from the definition of employment service performed in the employ of an agricultural or horticultural organization. The Senate amendment clarifies this exemption to make certain that these organizations are identical with agricultural and horticultural organizations exempt from income tax under section 101 (1) of the Internal Revenue Code. The House recedes.

Amendments Nos. 145 and 146: These amendments make a clarifying change to bring this provision into conformity with a similar provision contained in the Revenue Act of 1939. The House recedes.

Amendments Nos. 147 and 148: These amendments make clerical changes; and the House recedes.

Amendment No. 149: This amendment eliminates from the Federal Unemployment Tax Act insurance agents and solicitors if the remuneration for which they perform their services is on a commission basis solely. There was no comparable provision in the House bill. The House recedes.

Amendment No. 150: This amendment excludes service performed by an individual under the age of 18 in making street sales of newspapers, and in making house-to-house deliveries of newspapers and shopping news, including handbills and other similar types of advertising material. It does not include the handling of newspapers and advertising material prior to the time they are turned over to the individual who makes the sale, the house-to-house, or other final distribution. There was no comparable provision in the House bill. The House recedes.

Amendments Nos. 151 and 152: These amendments make a clarifying change; and the House recedes.

Amendments Nos. 153 and 154: The House bill defined agricultural labor to include all services performed on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity. These Senate amendments struck out the words "connection with". The conference action restores such words; and the Senate recedes.

Amendments Nos. 155, 156, 158, 159, and 162: These amendments make clarifying changes to the definition of agricultural labor. The House recedes.

Amendment No. 157: This amendment includes in the definition of agricultural labor service performed on a farm with respect to other wildlife in the same manner and to the same extent as service performed with respect to fur-bearing animals. The House recedes with a clarifying amendment.

Amendment No. 160: This amendment includes within the term "agricultural labor" service performed in the employ of the owner or tenant or other operator of a farm, in connection with the maintenance of the tools and equipment on such farm. It also includes service performed in the employ of any such owner, tenant, or other operator in

salvaging timber or clearing land of brush or other debris left by a hurricane. Both amendments are subject to the limitation contained in the bill that the major part of such service must be performed on a farm. The House recedes.

Amendment No. 161: This amendment includes as agricultural labor, in addition to the services included in the House bill, 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. The House recedes.

Amendment No. 163: This amendment provides for the establishment and maintenance of personnel standards on a merit basis similar to amendments Nos. 2, 67, 68, 75, and 79. The House recedes with an amendment which retains the Senate amendment but provides that the Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

Amendment No. 164: The House bill provided as in existing law that the amount to be contributed by the Federal Government for administrative expenses for aid to the blind would be an amount equal to 5 percent of the Federal contribution to the State for aid to the blind. The Senate amendment changes this provision to one-half of the total of the sums expended during any quarter as are found necessary by the Board for the proper and efficient administration of the State plan. The House recedes with conforming amendments.

Amendment No. 165: This amendment makes a clerical change; and the House recedes.

Amendment No. 166: The House bill included Puerto Rico on the same basis as a State for the purposes of titles V and VI of the Social Security Act. The Senate amendment (which is complementary to amendment No. 82 giving Puerto Rico \$15,000 annually for vocational rehabilitation) provides that Puerto Rico shall not be included as a State for purposes of vocational rehabilitation grants. The Senate recedes. The conference action on this amendment and amendment No. 82 has the effect of including Puerto Rico as a State for purposes of vocational rehabilitation grants thereby allowing it to receive the minimum allotment of \$20,000 for each fiscal year and to share in the remainder of the appropriation on an equal basis with the States.

Amendment No. 167: This amendment is complementary to amendments Nos. 97 and 98. Under section 606 of the House bill certain salesmen were included as employees for purposes of the old-age insurance tax, and by section 801 were included as employees for the purpose of receiving benefits under title II. Senate amendments Nos. 97 and 98 struck out such extension of coverage for purposes of the tax and this amendment strikes out such extension for purposes of the benefits under title II. It is believed inexpedient to change the existing law which limits coverage to employees. The House recedes.

Amendment No. 168: This amendment, which is complementary to amendment No. 169, makes a clerical change; and the Senate recedes.

Amendment No. 169: This amendment prohibits the Social Security Board from disapproving any State plan under title I, IV, or X of the Social Security Act on the ground that such plan does not apply to or include certain Indians as defined. There was no comparable provision in the House bill. The Senate recedes.

**Amendment No. 170:** This is a technical amendment made necessary because the new section 906 (amendment No. 174) affects the Railroad Unemployment Insurance Act and is therefore in conflict with the language contained in section 901 unless this amendment is inserted. The House recedes.

**Amendment No. 171:** This is a technical amendment to set at rest certain conflicting district court decisions, and provides 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. There was no comparable provision in the House bill. The House recedes.

**Amendment No. 172:** This amendment merely conforms the reference in section 1428 of the Internal Revenue Code to the revision of the numbers of the paragraphs in section 1426 (b) of such Code. The House recedes.

**Amendment No. 173:** This amendment is complementary to amendment No. 35 and imposes the old-age insurance tax on wages paid after December 31, 1938, with respect to employment after such date, to employees who have attained the age of 65. It provides that the liability of the employer for the employees' tax with respect to service performed prior to the enactment of this act is limited to the amount of remuneration of such employee in the control of the employer at any time on or after 90 days after the enactment of this act. There was no comparable provision in the House bill. The House recedes.

**Amendment No. 174:** This amendment extends the time within which certain States may effect the transfer of certain funds from the State's account in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund. 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. There was no comparable provision in the House bill. The House recedes.

**Amendment No. 175:** This amendment is complementary to amendments Nos. 35 and 173. It provides that where the employees' tax with respect to the year 1939 has not been deducted from the employee over 65 and where the employer has not paid the employee's tax for such employee's 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. There was no comparable provision in the House bill. The House recedes.

**Amendment No. 176:** This amendment authorizes the establishment of an advisory council on unemployment insurance to study certain specified matters concerning unemployment insurance and make a report thereon. There was no comparable provision in the House bill. The Senate recedes.

**Amendment No. 177:** This amendment authorizes the establishment of an advisory council on disability insurance to make a study of disability insurance and report thereon. There was no comparable provision in the House bill. The Senate recedes.

**Amendment No. 178:** This is a clarifying amendment to make certain that the administration of the functions of the Social Security

Board, which was transferred to the Federal Security Agency under reorganization plan No. 1 transmitted to Congress on April 25, 1939, will be administered in the same manner as the other agencies transferred to the Federal Security Agency. The House recedes.

Amendment No. 179: This amendment extends coverage to individuals employed by certain Federal savings and loan associations affiliated with the Federal Home Loan Banks, who would otherwise be excluded from the old-age insurance benefits, the Federal Insurance Contributions Act, and the Federal Unemployment Tax Act, since under the Home Owners' Loan Act they are exempt from taxes imposed by the United States. There was no comparable provision in the House bill. The House recedes.

Amendment No. 180: This amendment relates to section 213 (f) of the Revenue Act of 1939, which deals with the assumption of liability in certain tax-free exchanges. There is no comparable provision in the House bill. Section 213 (f) of the Revenue Act of 1939 retroactively amended the Revenue Acts of 1924 through 1938 to provide that the assumption of a liability or the acquisition of property subject to a liability in certain tax-free exchanges should not result in gain to be taxed at the time of the exchange, except in cases where by a previous decision of a court or of the Board of Tax Appeals, or under a closing agreement, gain was recognized to the transferor of property in the tax-free exchange by reason of such an assumption or acquisition by the transferee. The Senate amendment removes from that exception a case in which gain was recognized to a corporate transferor by a court or board decision, the basis to the transferee of the property acquired by it in the exchange was fixed at cost under the applicable revenue act, and the corporate taxpayer liquidated immediately subsequent to the exchange. As the period of limitations may have expired with respect to the filing of a refund claim in such a case, the amendment provides 1 year from the date of enactment of the Revenue Act of 1939 within which to file a refund claim. The House recedes with an amendment which provides that no interest shall be allowed or paid on the amount of any overpayment refunded or credited by reason of the provisions of this section.

Amendment No. 181: This amendment extends the time to December 31, 1939, for the filing of claims for refunds under subsection (d) of section 602 of the Revenue Act of 1936, as amended. There was no comparable provision in the House bill. The House recedes.

Amendment No. 182: This amendment provides that after 1940 the provisions of the Social Security Act shall not be applicable to foreign-born aliens. It also provides for refunds of any taxes they may have paid under such act, and that any employer using alien labor shall pay a special privilege tax equivalent to that collected from American citizens. Subsection (b) of the amendment prohibits the payment of any old-age insurance benefit to any individual while such individual is not a resident of the United States or its possessions unless such individual resides within 50 miles of the United States. There was no comparable provision in the House bill. The Senate recedes.

The managers on the part of the House desire to state that the changes made by this bill with respect to agricultural labor do not take effect until January 1, 1940, and therefore have no effect whatso-

ever on any litigation now in the courts with respect to what constitutes agricultural labor under present law.

The managers on the part of the House also desire to state that there are two very important proposals to which the conferees gave a great deal of attention. These are the so-called Connally amendment, providing for greater Federal matching in the case of old-age assistance, and the Massachusetts plan which would enable the States to make a State-wide reduction in unemployment compensation contribution rates under certain conditions. The conferees believe that a comprehensive study of the subject matter covered by these two proposals should be undertaken which will enable the Congress to deal more intelligently with the problems involved than is possible at the present time.

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THOS. H. CULLEN,  
JOHN W. McCORMACK,  
JERE COOPER,  
ALLEN T. TREADWAY,  
FRANK CROWTHER,  
THOMAS A. JENKINS,

*Managers on the part of the House.*

