CONF. REP. 81-2771, Conf. Rep. No. 2771, 81ST Cong., 2ND Sess. 1950, 1950 U.S.C.C.A.N. 3482, 1950 WL 1788 (Leg.Hist.)
***3482** P.L. **81**-**734**, SOCIAL SECURITY ACT AMENDMENTS OF 1950
Senate Report No. 81-1669,
May 17, 1950 (To accompany H.R. 6000)
House Report No. 81-1300,
Aug. 22, 1949 (To accompany H.R. 6000)
Conference Report No. 81-2771,
Aug. 1, 1950 (To accompany H.R. 6000)
The Senate Report repeats in substance the House Report. The Conference Report, also set out, outlines changes in the bill accepted by the Conference.

CONFERENCE REPORT NO. 81-2771

Aug. 1, 1950

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 amendment of the Senate to the bill (H.R. 6000) to extend and improve the Federal Old-age and Survivors Insurance System, to amend the public assistance and child welfare ***3483** provisions of 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.

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute amendment. The conference agreement is a substitute for both the House bill and the Senate amendment. Except for clarifying, clerical, technical, and necessary conforming changes, the following statement explains the differences between the House bill, the Senate amendment, and the substitute agreed to in conference:

OLD-AGE AND SURVIVORS INSURANCE

COVERAGE

DEFINITION OF EMPLOYMENT

Agricultural labor

The House bill continued the exclusion under existing law of agricultural labor from the definition of ‘employment‘ although the House bill narrowed the definition of ‘agricultural labor.‘ The Senate amendment excluded from the definition of ‘employment‘ agricultural labor performed in any calendar quarter by an employee, but only if the cash remuneration paid for such service is less than $50 or the service is performed by an individual who is not regularly employed by an employer during a calendar quarter only if (i) on each of some 60 days during the calendar quarter such individual performs agricultural labor for such employer for some portion of the day, or (ii) such individual was regularly employed (determined in accordance with the test in the preceding clause) by such employer in the performance of service of the prescribed character during the preceding calendar quarter. The amendment provided that remuneration paid for such service in any medium other

than cash would not constitute wages.

The Senate amendment, however, did not apply in the case of service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton. Such service is specifically excepted from employment under the Senate amendment, regardless of the amount of the remuneration paid for, or the regularity of the performance of, such service. This specific exclusion from employment under the Senate amendment of service performed in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, applies only to service performed in connection with the production or harvesting of crude gum (oleoresin) from a living tree or the processing of such crude gum into ***3484** gum spirits of turpentine and gum resin, provided such processing is carried on by the original producer of such crude gum.

The conference agreement adopts the Senate provision with a change in the test of when an individual is deemed to be regularly employed in performing agricultural labor for an employer. Under the conference agreement, an individual is deemed to be regularly employed by an employer during a calendar quarter (including the first quarter of 1951) only if (i) such individual performs agricultural labor (other than services in connection with the production or harvesting or any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton) for such employer on a full-time basis on 60 days (whether or not consecutive) during the quarter, and (ii) t e quarter was immediately preceded by a qualifying quarter. A qualifying quarter is defined as (1) any quarter during all of which the individual was continuously employed by the employer, or (ii) any subsequent quarter meeting the test of clause (i) above if, after the last quarter during all of which the individual was continuously employed by the employer, each intervening quarter met the test of clause (i). An individual is also deemed to be regularly employed by an employer during a calendar quarter if he was regularly employed (upon application of clauses (i) and (ii)) by the employer during the preceding calendar quarter. Under the conference agreement remuneration for services in connection with the production or harvesting of any commodity defines as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the ginning of cotton, is not counted for purposes of the $50 cash wage test.

The Senate amendment adopted the definition contained in the House bill of the term ‘agricultural labor‘ except that the Senate amendment adds to the list of service constituting agricultural labor the following: Service performed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; and service not in the course of the employer’s trade or business or domestic service in a private home of the employer, if such service is performed on a farm operated for profit. The conference agreement adopts the House provision with the additions made by the Senate amendment.

Domestic workers

The House bill excluded from employment service not in the course of the employer’s trade or business (including domestic service in a private home of the employer) performed in any calendar quarter by an employee, but only if the cash remuneration paid to an individual for such service is less than $25, or such service is performed by an individual who is not regularly employed by the employer to perform such service. For the purposes of the exception, an individual is deemed to be regularly employed by an employer during a calendar quarter only if (i) such ***3485** individual performs for such employer service of the prescribed character during some portion of at least 26 days during the calendar quarter, or (ii) such individual is regularly employed (determined in accordance with clause (i)) by such employer in the performance of service of the prescribed character during the preceding calendar quarter. The Senate amendment modified the House bill by requiring $50 of cash wages instead of $25 of cash wages earned in the quarter; and providing that the test of regularity be based upon performance of services on each of some 24 days during a quarter rather than 26 days.

The conference agreement adopts the Senate amendment as to service not in the course of the employer’s trade or business. The agreement also conforms with the policy of the Senate amendment with respect to domestic service, but the cash test of $40 is changed from a remuneration earned in the quarter basis to a remuneration paid in the quarter basis. Under the conference agreement, cash remuneration received by an employee in a calendar quarter for domestic service in a private home of the employer does not constitute wages unless the cash remuneration for such service received by the employee from the employer in such quarter is $50 or more, and the employee is regularly employed by the employer in such quarter of

payment in the performance of such service.

The House bill excepted from employment service not in the course of the employer's trade or business (including domestic service in a private home of the employer) performed on a farm operated for profit. The Senate amendment omitted this provision because of its amendment (adopted under the conference agreement) including such service within the definition of agricultural labor. The conference agreement conforms with the Senate action.

Federal employees

The House bill excluded from employment service performed in the employ of the United States Government or in the employ of any instrumentality of the United States but only if (1) such service is covered by a retirement system established by a law of the United States for employees of the United States or of such instrumentality, or (2) the service is of the character described in any one of a list of 13 special classes of excepted services. The Senate amendment adopted the general policies of the House bill except for one area of Federal employment. The large group covered under the Senate amendment and not under the House bill consists of employees serving under a temporary appointment pending final determination of eligibility for permanent or indefinite appointment; and the conference agreement extends coverage to this group.

The conference agreement contains three separate subparagraphs. Subparagraph (A) excepts from employment service performed in the employ of the United States or of any instrumentality of the United States, if such service is covered by a retirement system established by a law of the United States. Determinations as to whether the particular service ***3486** is covered by a retirement system of the requisite character are to be made on the basis of whether such service is covered under a law enacted by the Congress of the United States which specifically provides for the establishment of such retirement system. Subparagraph (B) excepts from employment service performed in the employ of an instrumentality of the United States if such an instrumentality was exempt from the tax imposed by section 1410 of the Internal Revenue Code on December 31, 1950. This provision can apply in the case of an instrumentality created after 1950 if such instrumentality, had it been in existence on December 31, 1950, would have been exempt from such tax by reason of a provision of law in effect on that date. The exception from employment under subparagraph (B) does not apply to (i) service performed in the employ of a corporation which is wholly owned by the United States (but such service, of course, is not included as employment if the service is excluded upon application of the rules contained in subparagraph (A) or (C)); (ii) service performed in the employ of a national farm loan association, a production credit association, a Federal Reserve bank, or a Federal credit union; (iii) service performed in the employ of a State, county, or community committee under the Production and Marketing Administration; (iv) service performed by a civilian employee, who is not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force motion picture service, Navy exchanges, Marine Corps exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department. Subparagraph (C) excepts from employment service performed in the employ of the United States or in the employ of any instrumentality of the United States if the service is of the character described in any one of a list of 13 special classes of excepted services. These 13 special classes of excepted service include the 12 special classes of excepted services listed in the Senate amendment and, in addition, service performed by an individual to whom the Civil Service Retirement Act of 1930 does not apply because such individual is subject to another retirement system (either established by a law of the United States or by the agency or instrumentality for which the service is performed).

Employees of transportation systems operated by a State or political subdivision

The House bill included as employment service performed in the employ of a political subdivision of a State (including an instrumentality of one or more subdivisions) in connection with the operation of a public transportation system if such service is performed by an employee who (i) became an employee of the political subdivision in connection with and at the time of its acquisition after 1936 of the transportation system or any part thereof, and (ii) prior to the acquisition rendered services which constituted employment (for social-security-coverage purposes) in ***3487** connection with the operation of the transportation system or part thereof acquired by the political subdivision. Under the House provision if a city acquired a transportation system in 1930 and in 1940 acquired from private ownership a bus line which became part of the city transportation system, only the employees taken over from the privately owned bus line would be covered for social-security

purposes. Other employees working for the city in connection with the operation of its transportation system, including employees hired after the acquisition of the bus line, would not have been covered under the House provision.

However, in the case of employees taken over by a political subdivision in connection with an acquisition made prior to the effective date of the provisions of the House bill amending the definition of employment, the House bill provided that if the political subdivision filed with the Commissioner of Internal Revenue prior to such effective date a statement that it did not favor the coverage of any employee who became an employee in connection with acquisitions made before such effective date, then the services of such employees would not constitute employment.

The Senate amendment provided for the inclusion as employment of all service performed in the employ of a State or political subdivision (or instrumentality) in connection with the operation of any public-transportation system the whole or any part of which was acquired after 1936. The Senate amendment did not limit coverage to those employees taken over from private employers at the time of such acquisition.

The conference agreement adopts the provision of the Senate amendment as the general rule to be applied, but the agreement sets forth certain conditions and circumstances under which none, or only some, of the employees will be covered.

Under the conference agreement, if the State or political subdivision acquires a transportation system, or any part thereof, from private ownership after 1936 and before 1951, all employees (with respect to services rendered after 1950 in connection with the operation of the transportation system) will be covered unless--

(i) The State or political subdivision on December 31, 1950, has a general retirement system (a defined term) in effect, covering substantially all services performed in connection with the operation of the transportation system; and

(ii) Such general retirement system provides benefits which are protected from diminution or impairment under the State constitution by reason of an express provision, dealing specifically with retirement systems established by the State or subdivisions of the State, which forbids such diminution or impairment.

A constitutional provision permitting diminution or impairment by action of the legislature would not qualify, under the conference agreement, as a constitutional provision described in clause (ii).

If the State or political subdivision made an acquisition described in the preceding paragraph and the employees are not covered under a ***3488** general retirement system described in clause (ii) above, all services in connection with the transportation system will constitute employment, including the service of all employees hired after 1950 and including the service of employees who did not work for the private employer from whom the State or political subdivision acquired its transportation system.

If the State or political subdivision which acquired part of its transportation system after 1936 and before 1951 had on December 31, 1950, a general retirement system covering the services of its transportation employees, and the test of clause (i) and (ii) are both satisfied, none of the employees (subject to a limited exception set forth in the following paragraph) would be covered. This exclusion from employment will apply even in the case of employees who worked for the private employer from whom the State or political subdivision acquired the transportation system (or part thereof) and who became employees of the State or political subdivision in connection with the acquisition.

The conference agreement provides, however, in the case of a transportation system in which service is not employment by reason of rules set forth in the preceding paragraphs, that if the State or political subdivision makes a new acquisition from private ownership after 1950 of an addition to its transportation system, then in the case of any employee who--

(A) Became an employee of the State or political subdivision in connection with and at the time of its acquisition (after 1950) of the addition to its transportation system, and

(B) Prior to such an acquisition rendered service which constituted employment (for social-security-coverage purposes) in connection with the operation of the addition to the transportation system acquired by the State or political subdivision, the service of such employee (in connection with any part of the transportation system) shall constitute employment,

commencing with the first day of the third calendar quarter following the calendar quarter in which the acquisition of the new addition took place, unless on such first day the service of the employee is covered by a general retirement system which does not contain special provisions applicable only to employees taken over by the State or political subdivision in connection with such acquisition.

The rule of the immediately preceding paragraph is, under the conference agreement, applicable in one other situation. If a State or political subdivision is operating a public transportation system on December 31, 1950, but no part of the system was acquired after 1936 and before 1951, none of the service of the employees will constitute employment unless the State or political subdivision makes an acquisition on or after January 1, 1951, from private ownership of an addition to its existing system. In the case of such an acquisition of a part of its transportation system, the employees taken over by a State or political subdivision at the time and in connection with such acquisition will be covered, or not ***3489** covered, upon application of the rule set forth in the preceding paragraph.Employees of the public transportation system not taken over from private ownership at the time of such acquisition would not be affected at all-- their service would remain excluded from employment.

In the case of a State or political subdivision which does not operate on December 31, 1950, a transportation system, but acquires a transportation system after such date, the conference agreement provides that all service performed in connection with the operation of the acquired transportation system will constitute employment, unless at the time the first part of such transportation system is acquired by it from private ownership the State or political subdivision has a general retirement system covering substantially all the service performed in the operation of the transportation system.

The term ‘general retirement system‘ is defined to mean any pension, annuity, retirement, or similar fund or system established by a State or p0*l*itical subdivision for employees of the State, political subdivision, or both, but does not include a fund or system which covers only service performed in positions connected with the operation of its public transportation system.

A transportation system or part thereof is considered to have been acquired by a State or political subdivision from private ownership if prior to the acquisition service performed by employees in connection with the operation of the system or the acquired part constituted employment (for social-security coverage purposes) and some of such employees became employees of the State or political subdivisions in connection with and at the time of such acquisition.

The term ‘political subdivision‘ is defined to include an instrumentality of a State, of one or more State political subdivisions, or of a State and one or more of its political subdivisions.

Coverage of State and local employees under compacts

The House bill provided for the extension of old-age and survivors insurance coverage to employees of State and local governments under agreements negotiated between the States and the Federal Security Administrator. The House bill also permitted the employees of State and local governments, covered by State and local government retirement systems, to be included in such agreements if two-thirds of the employees consented to be covered under the program. The Senate amendment modified the House provisions. It included from the purview of such agreements employees of States and local governments covered by State and local government retirement systems. The Senate amendment further provided for the establishment of separate coverage groups of employees engaged in the performance of single proprietary functions. The conference agreement adopts the Senate provisions.

***3490** Employees of religious, charitable, and certain other nonprofit organizations

Under the House bill, employees of religious, charitable, educational, and other organizations exempt from income tax under section 101(6) of the Internal Revenue Code were covered on a compulsory basis. The House bill, however, granted an exemption to such organizations from the tax imposed on the employer under section 1410 of such code. Provision was made for waiver by the organization of such exemption. If the exemption from taxation was not waived, the employees of the organization would, for the purpose of computing insured status and average monthly wage, receive wage credits for only one-half of the wages paid. An organization waiving its exemption from tax was permitted, under the House bill, to regain its

tax-exempt status by giving a 2 years notice. Such notice of termination could not be given prior to the expiration of 5 years following the effective date of the waiver period.

The Senate amendment provided for compulsory coverage of organizations which are not organized and operated primarily for religious purposes or which are not owned and operated by one or more organizations operating primarily for religious purposes. The organizations whose employees were covered under the compulsory basis were, under the Senate amendment, subject, on a compulsory basis, to the employers' tax imposed under section 1410 of the Internal Revenue Code. The employees of such organizations were also subject, on a compulsory basis, to the employee's tax imposed under section 1400 of the code. In the case of religious organizations, or organizations owned and operated by religious organizations, provision was made under the Senate amendment for coverage of employees upon filing a statement with the Commissioner of Internal Revenue that the organization desired to have the old-age and survivors insurance system extended to its employees. If such a statement was once filed, it could not thereafter be revoked by the organization.

The conference agreement differs from both the House bill and the Senate amendment. Under the conference agreement service performed in the employ of an organization exempt from income tax under section 101(6) is excluded from employment unless the organization files a certificate that it desires to have the old-age and survivors insurance system extended to its employees. If it does not file such a certificate, neither the organization nor its employees are subject to the social-security taxes imposed by the Federal Insurance Contributions Act. If it does file such a certificate, both the employer and the employee are, for the period during which the certificate is in effect, subject to such taxes in the same manner as a private employer and his employees. The certificate filed by the organization must certify that at least two-thirds of its employees concur in the filing of the certificate, and the certificate must be accompanied by a list containing the signature, address, and social-security account number (if any) of each employee who concurs in the filing of the ***3491** certificate. Such list may be amended, at any time prior to the expiration of the first month following the first calendar quarter for which the certificate is effective, by filing a supplemental list or lists containing the signature, address, and social-security number of each additional employee who concurs in the filing of the certificate. Commencing with the first day following the close of the calendar quarter in which the certificate is filed, the employees who have concurred in the filing of such certificate will be covered for social-security purposes. Any employee who is hired on or after such first day will be covered on a compulsory basis. If an individual, who on such first day was in the employ of the organization, should leave his position and thereafter reenter the employ of such organization, such employee will be covered on and after the date of such reentry, whether or not he concurred in the filing of the certificate when he was previously in the employ of the organization.

The conference agreement further provides that the period for which the certificate is effective may be terminated by the organization upon giving 2 years' advance notice in writing of its desire to terminate the effect of the certificate at the end of a calendar quarter; but only if the certificate has been in effect for a period of not less than 8 years at the time of the receipt of the notice of termination. The organization may revoke its notice of termination by giving a written notice of such revocation prior to the close of the calendar quarter specified in the notice of termination. The certificate (and any notice of termination or revocation of such notice) must be filed in such form and manner and with such official as may be prescribed by regulations.

Provision is also made, under the conference agreement, for termination of the waiver period upon the initiative of the Commissioner of Internal Revenue. If the Commissioner finds that an organization which filed a certificate has failed to comply substantially with the provisions of the Federal Insurance Contributions Act, or is no longer able to comply with such provisions, the Commissioner can give such organization a 60 days' notice in writing that the period covered by the certificate will terminate at the end of the calendar quarter specified in the notice. Such notice by the Commissioner may be revoked by him by giving, prior to the close of the calendar quarter specified in his notice of termination, written notice of revocation. The Commissioner cannot give notice of termination or revocation thereof without prior concurrence of the Federal Security Administrator.

If the period covered by the certificate is terminated by the organization itself, it may not thereafter file a certificate waiving the exclusion from employment of its employees.

Service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order would not constitute employment under the House bill, the Senate amendment, or the conference agreement.

***3492** Effective date

The provisions of the conference agreement amending the definition of employment apply only with respect to service performed after December 31, 1950.

DEFINITION OF ‘WAGES‘

The House bill continued the provisions of existing law which exclude from wages payments made to or on behalf of an employee under a plan or system providing for payments on account of (1) retirement, (2) sickness or accident disability, (3) medical or hospitalization expenses, or (4) death but provided that such payments made for death benefits should be excluded from wages regardless of whether the employee has certain options or rights, such as the option to receive, instead of the provision for such death benefit, any part of such payment made by the employer, or the right to assign the death benefit or to receive a cash consideration in lieu thereof. The Senate amendment adopted the House provision, but in addition excluded from wages any such payment made to or on behalf of any dependents of an employee under a plan or system providing for the employee and his dependents. The conference agreement adopts the Senate provision.

The House bill excluded from wages certain payments made to, or on behalf of, an employee from or to a trust exempt from tax under section 165(a) of the code or under or to an annuity plan which meets the requirements of section 165(a) (3), (4), (5), and (6). The Senate amendment made a clarifying change in the House provision to assure the exclusion from wages of a payment of the prescribed character made to, or on behalf of, a beneficiary of an employee. The conference agreement adopts the Senate provision.

The Senate amendment added a new provision excluding from wages remuneration for agricultural labor paid in any medium other than cash. The Senate provision was necessary because under the Senate amendment agricultural labor may be covered under certain conditions. The House bill contained no comparable provision. The conference agreement adopts the Senate provision.

The House bill contained an express provision relating to tips and other cash remuneration customarily received by an employee in the course of his employment from persons other than the person employing him. The Senate amendment eliminated this provision of the House bill. The conference agreement conforms to the Senate amendment.

The Senate amendment contained a provision designed to make easier the computation of wages for services not in the course of the employer’s trade or business, particularly with respect to wages for domestic service. The House bill contained no comparable provision. The conference agreement adopts the Senate provision, but limits its application to remuneration for domestic service in a private home of the employer. The agreement authorizes the issuance of regulations in appropriate cases for the rounding of remuneration payments for such service to the nearest whole ***3493** dollar. For example, if a household employee receives a cash remuneration payment of $9.50, or $10.49, or any amount in between, the payment could, if the regulations so provide, be considered to be $10. The rounding of cash wage payments to the nearest whole dollar will ease the householder’s part in the social security program for purposes of applying the tax rate to the wage payment, for purposes of any required record keeping, and for purposes of determining whether $50 or more has been paid to the employee in any calendar quarter.

Under the House bill, remuneration paid to certain homeworkers would constitute wages, but the definition of ‘employee‘ contained in the Senate amendment resulted in the exclusion of such remuneration from wages. Under the conference agreement, which includes homeworkers as employees, remuneration paid by an employer in any calendar quarter to a homeworker (if such homeworker is an employee under the definition of ‘employee‘) will constitute wages, but only if cash remuneration of $50 or more is paid during the calendar quarter by the employer to such homeworker. If $50 or more of cash remuneration is paid by the employer to such homeworker during the calendar quarter, it is immaterial whether the $50 is in payment of services rendered the employer during the quarter of payment or during a previous quarter.

The conference agreement also makes certain amendments in the definition of ‘wages‘ for purposes of the Federal Unemployment Tax Act and income-tax withholding to conform such definitions in certain respects with the definition of

‘wages‘ under the Federal Insurance Contributions Act.

Effective date

The provisions of the conference agreement amending the definition of wages apply only with respect to remuneration paid after December 31, 1950.

DEFINITION OF ‘EMPLOYEE‘

The definition of the term ‘employee‘ in the House bill required that the usual common-law rules be used to determine whether an individual is an employee. The Senate accepted this provision without change but struck out the second sentence of the paragraph in the House bill which was designed to change the effect of the United States Supreme Court’s holding in the case of Bartels v. Birmingham (332 U.S. 126 (1947)). The conference agreement accepts the Senate amendment. With regard to the meaning of the phrase ‘the usual common law rules applicable in determining the employer-employee relationship,‘ this opportunity is taken to reiterate and endorse the statement made in the Report of the Committee on Ways and Means in connection with the Social Security Act Amendments of 1939:

A restricted view of the employer-employee relationship should not be taken in the administration of the Federal old-age and survivors insurance system in making coverage determinations. The tests for determining the relationship laid down in cases relating to tort liability and to the ***3494** common-law concept of master and servant should not be narrowly applied (p. 76). The statement made in 1939 is equally applicable to the phrase in the bill as agreed upon in the conference agreement, which contemplates a realistic interpretation of the common law rules.

Provisions in both the House bill and the Senate amendment added individuals in certain specified occupational groups who are not necessarily employees under the usual common law rules. However, the Senate amendment made substantial revisions in the additions which were provided in the House bill.

The Senate amendment eliminated entirely the House additions with respect to driver-lessees of taxicabs, contract loggers, mine lessees, and house-to-house salesmen. The conference agreement adopts these Senate amendments.

The Senate amendment struck out the House provision which added outside salesmen in the manufacturing or wholesale trade, substituting a more detailed provision which added city and traveling salesmen performing services under certain specified conditions. Under the conference agreement, city and traveling salesmen are included (subject to the general limitations which appeared in both the House bill and Senate amendments and which are applicable to all of the categories listed in par. (3)) if they are engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, their principals (except for side-line sales activities on behalf of other persons) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. City and traveling salesmen who sell to retailers or to the others specified, operate off the companies’ premises, and are generally compensated on a commission basis, are included within this occupational group. Such salesmen are generally not controlled as to the details of their service or the means by which they cover their territories, but in the ordinary case they are expected to call on regular customers with a fair degree of regularity. The conference agreement requires with respect to a city or traveling salesman that, in order for him to be included within the term ‘employee,‘ his entire or principal business activity must be devoted to the solicitation of orders for one principal. Thus, the multiple-line salesman generally will not be within the scope of this subparagraph of the definition. However, the conference agreement specifies that, if the salesman solicits orders primarily for one principal, he shall not be excluded solely because of side-line sales activities on behalf of one or more other persons. In such a case, the salesman would be the employee under paragraph (3) of the definition only of the person for whom he primarily solicits orders and not of such other persons.

The conference agreement specifically excludes agent-drivers and commission drivers from the scope of this subparagraph of the definition.

The following examples illustrate the application of the paragraph as it relates to city and traveling salesmen:

***3495** 1. Salesman A's principal business activity is the solicitation of orders from retail pharmacies on behalf of the X wholesale drug company. A also occasionally solicits orders for drugs on behalf of the Y and Z companies. Within the meaning of subparagraph (3) (D), A is the employee of the X company but not of the Y and Z companies.

2. Salesman B's principal activity is the solicitation of orders from retail hardware stores on behalf of the R tool company and the S cooking utensil company. B regularly solicits orders on behalf of both companies. Within the meaning of subparagraph (3) (D), B is not the employee of either the R or S company.

3. Salesman C's principal business activity is the House-to-house solicitation of orders on behalf of the T brush company. C occasionally solicits such orders from retail stores and restaurants. Within the meaning of subparagraph (3) (D), C is not the employee of the T company.

The Senate amendment added certain agent-drivers and commission-drivers to paragraph (3) of the definition as it appeared in the House bill. Under paragraph (3) (A) as it appears in the conference agreement, the definition of 'employee' includes agent-drivers or commission-drivers who are engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services for their principals. This category includes an individual who operates his own truck or the truck of the company for which he performs services, serves customers designated by the company as well as those solicited on his own, and whose compensation is a commission on his sales or the difference between the price he charges his customers and the price he pays to the company for the product or service.

The Senate amendment struck out the House provision which added home workers to the definition of 'employee'. Under paragraph (3) (C) of the definition agreed to by the conferees, a home worker is included in the term if he performs work, according to specifications furnished by the person for whom the services are performed, on materials or goods furnished by such person which are required to be returned to such person or a person designated by him, if the performance of such services is subject to licensing requirements under the laws of the State in which such services are performed. However, as provided in the definition of 'wages' adopted by the conference agreement, a home worker who meets the requirements of this definition of 'employee' still will not be covered unless he is paid remuneration in cash of $50 or more in any calendar quarter by the person for whom the services are performed. It is not required that such remuneration must be paid in the quarter in which the services are performed.

With respect to the requirement that the performance of services by a home worker must be subject to licensing laws in the State in which the work is performed as a prerequisite to the inclusion of such individual in the definition of 'employee' the conference agreement intends that this requirement will be met either in the case where the State requires a ***3496** home-work license on the part of the person for whom the services are performed or in the case where the State requires a home-work certificate on the part of the individual who performs the services.

The House bill contained a paragraph (4) of the definition of 'employee' which would have included within the meaning of the term any individual who had the status of an employee as determined by the combined effect of seven enumerated factors. The Senate amendment struck out this paragraph, and the conference agreement follows the Senate amendment with respect to this matter.

SELF-EMPLOYED

In providing coverage for the self-employed, the House bill excluded from tax (and from benefit coverage) income derived from the performance of service by an individual (or partnership) in the exercise of his profession as a physician, lawyer, dentist, osteopath, veterinarian, chiropractor, Christian Science practitioner, or as an aeronautical, chemical, civil, electrical, mechanical, metallurgical, or mining engineer. The Senate amendment added to the list of exclusions the following: naturopaths, architects, certified public accountants, and accountants registered or licensed as accountants under the State or municipal law, and funeral directors; and substituted 'professional engineers' in lieu of the specific engineers listed in the House bill. The conference agreement adopts the Senate provision, with an addition (to the group excluded) of full-time practicing public accountants.

The House bill also excluded income derived from a trade or business of publishing a newspaper or other publication having a paid circulation. The Senate amendment deleted such exclusion. The conference agreement conforms with the Senate action

in extending coverage in this area.

BENEFITS

INDIVIDUALS ENTITLED TO BENEFITS

Wife's insurance benefits

The House bill provided for payment of wife's insurance benefits to a wife under age 65 if she has in her care a child entitled to benefits on the basis of the wages and self-employment income of her husband. The Senate amendment contained no such provision. The conference agreement is the same as the House bill.

Husband's insurance benefits

The House bill contained no provision for payment of benefits to aged husbands of insured women. The Senate amendment provided for payment of benefits at age 65 to the husband of a woman who was currently insured when she became entitled to old-age insurance benefits if he had received at least one-half his support from her and filed proof thereof within 2 years after she became ***3497** entitled to old-age insurance benefits (or prior to September 1952 in respect to women now receiving primary insurance benefits who under the conference agreement became entitled to old-age insurance benefits for September 1950). The amount of benefits payable is one-half the primary insurance benefit, as in the case of wife's benefits based on the husband's wage record. The conference agreement adopts the provision of the Senate amendment.

Child's insurance benefits

The House bill would deem a child dependent upon a natural or adopting mother if she was both fully and currently insured at the time of her death. The Senate amendment would permit a finding of such dependency if the mother was currently insured at her death or entitlement to old-age insurance benefits. Under the Senate amendment children of women possessing such qualifications who died or became entitled to primary insurance benefits prior to September 1950 could become entitled to child's benefits in September 1950. The conference agreement adopts the Senate provision.

Widower's insurance benefits

The House bill provided for no benefits to the aged widowers of insured women. The Senate amendment included a provision parallel to that for aged husbands, permitting payment of benefits at age 65 to the widower of a woman who died after August 1950 and who was both fully and currently insured at her death or entitlement to old-age insurance benefits, if he had been receiving at least one-half his support from her and filed appropriate proof within 2 years either of her death or entitlement to old-age insurance benefits. The widower's benefit, like that for a widow, is three-fourths of the primary insurance amount. The conference agreement is the same as the Senate amendment.

Lump-sum death payments

The House bill provided that a lump-sum death payment should be payable on the death of every insured worker. The Senate amendment would have retained existing law with respect to the circumstances under which a lump-sum death payment would be payable, and in addition provided for a residual lump-sum death payment in certain cases. The conference agreement adopts the provisions of the House bill so that survivors benefits need not be diverted for payment of burial expenses of an insured worker.

COMPUTATION OF BENEFITS PAYABLE

Computation of primary insurance amount

The House bill defined an individual's 'primary insurance amount' as the sum of (1) his base amount multiplied by his continuation factor, and (2) one-half of 1 percent of his base amount multiplied by the number of his years of coverage. The 'base amount' would have been defined as an amount equal to 50 percent of the first $100 of his average monthly wage plus 10 percent of the next $200 of such wage. The Senate ***3498** amendment eliminated the continuation factor and the 'increment' for years of coverage, and provided a primary insurance amount equal to 50 percent of the first $100 of average monthly wage plus 15 percent of the next $200 of such wage. Under the House bill, the benefit formula stated above would be applicable to any individual who had not received an insurance benefit for a month prior to 1950, or who had not died prior to 1950, and other persons would have had their benefits raised by a conversion table. The Senate amendment would permit any individual who had six or more quarters of coverage after 1950 to have his primary insurance amount computed either by means of the new benefit formula or by means of the formula in the present law (but without 'increment' for years after 1950) with the resulting amount raised by the conversion table (discussed hereafter), whichever results in the larger benefit (except that such an individual who attained age 22 after 1950 would always be given the benefit derived under the new formula). The conference agreement adopts the Senate amendment.

Minimum primary insurance amount

Under the House bill, the minimum primary insurance amount was $25. The Senate amendment provided for a minimum primary insurance amount of $25 in those cases in which the average monthly wage was $34 or more, and of $20 where the average monthly wage was less than $34. The conference agreement provides for a minimum primary insurance amount as follows:

If the average monthly wage is: The primary insurance amount will be:

$30 or less $20

$31 $21

$32 $22

$33 $23

$34 $24

$35 to $49 $25

Average monthly wage

Under the House bill, an individual's 'average monthly wage' would have been computed by dividing the total of his wages and self-employment income during 'years of coverage' after a specified starting date by twelve times the number of such years of coverage. The Senate amendment provides that the average monthly wage should be the total of wages and self-employment income, after a starting date and prior to a closing date, divided by the total number of months in that elapsed period. The conference agreement follows the Senate amendment, thus retaining the method of computation in the present Social Security Act, modified to provide for new starting and closing dates. The conference agreement provides that the average monthly wage may be computed as of the first quarter in which an individual both was fully insured and had attained retirement age if this produces a more favorable result. In the case of individuals age 65 and over on September 1, 1950, who become ***3499** fully insured under the new insured status provisions and who on such date would not have been fully insured under provisions of present law, the third quarter of 1950 will be considered as such first quarter rather than any earlier quarter in which they both had obtained six quarters of coverage and had attained retirement age.

Conversion table

The House bill provided for increasing existing benefits according to a conversion table which showed, for each dollar amount of existing primary insurance benefit, a new primary insurance amount and an assumed average monthly wage for the purpose of computing maximum benefits. The increase in the average benefit under this table would have been 70 percent. Under the Senate amendment the increase in the average benefit would have been 85 percent and the conversion table would have been used for the computation of the benefits of some persons who first become entitled to benefits after the date of enactment of the Act. The conference agreement follows the Senate amendment except that it provides a schedule of increases about midway between the increases provided by the House bill and the Senate amendment.

Parent's insurance benefits

The House bill raised the amount of a parent's benefit from one-half the primary insurance amount to three-fourths. The Senate amendment would have retained existing law under which the parent's benefit is one-half the primary insurance amount. The conference agreement adopts the House provision.

INSURED STATUS

Definition of 'quarter of coverage'

The House bill provided that after 1950 a quarter of coverage for purposes of insured status would be a calendar quarter in which an individual had been paid $100 in wages or had been credited with $200 of self-employment income. The Senate amendment provided that, for calendar quarters after 1950, wages of $50 or self-employment income of $100 would result in a quarter of coverage. The conference agreement follows the Senate amendment.

Fully insured individual

The House bill provided that an individual would be fully insured if he either met the requirements of the present Social Security Act or had at least 20 quarters of coverage out of the 40-quarter period ending with the quarter in which he attained retirement age or with any subsequent quarter, or ending with the quarter in which he died. The Senate amendment provided that the individual (if living on September 1, 1950) would be fully insured if he had at least 1 quarter of coverage (no matter when acquired) for each 2 quarters elapsing after 1950, or later ***3500** attainment of age 21, and up to but excluding the quarter in which he attained retirement age or died, whichever first occurred, but in no case less than 6 quarters of coverage or more than 40 quarters of coverage. The conference agreement adopts the Senate language.

PERMANENT AND TOTAL DISABILITY INSURANCE

The House bill provided insurance benefits for totally and permanently disabled insured individuals. The Senate amendment contained no comparable provision. The conference agreement does not provide for permanent and total disability insurance benefits.

WORLD WAR II MILITARY SERVICE

The House bill provided wage credits for World War II military service regardless of whether benefits based in whole or in part upon such service became payable under another Federal benefit system, the cost of such credits to be borne by the Federal Treasury. The Senate amendment provided the same wage credits but only if a benefit based in whole or in part upon the veteran's military service during World War II were not payable under another Federal benefit system, and provided that the costs should be borne by the trust fund. The Senate amendment also provided that the Federal Security Administrator should ascertain from the Civil Service Commission whether benefits were payable by other Federal agencies based in whole or in part upon military service. The conference agreement follows the Senate amendment except that it requires the Federal Security Administrator to ascertain the facts with respect to other Federal benefit payments directly from the agency involved rather than through the Civil Service Commission.

EFFECTIVE DATES

The House bill provided that the effective date for a new benefit provisions would be January 1, 1950. The Senate amendment provided that the new benefit provisions would be effective with respect to months beginning with the second calendar month after the date of enactment of the bill. Under the conference agreement the new benefit provisions will be applicable for months after August 1950.

FINANCING AND ADMINISTRATIVE PROVISIONS

TAX RATES

Rate of tax on wages

The House bill increased the rate of the employees' tax and of the employers' tax under the Federal Insurance Contributions Act from 1 1/2 percent to 2 percent on January 1, 1951.The Senate amendment postponed the increase in rates until January 1, 1956. The conference agreement increases the rate of each tax to 2 percent on January 1, 1954. Otherwise the rates under the House bill, the Senate amendment, and the conference ***3501** agreement are the same.Under the agreement the rates of each tax are as follows:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

Rate of tax on self-employment income

Under the House bill, the Senate amendment, and the conference agreement, the rates of tax on self-employment income are one and one-half times the rates of the employees' tax under the Federal Insurance Contributions Act.

The rates of the tax on such income for the respective taxable years under the conference agreement are as follows:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

APPROPRIATIONS TO THE TRUST FUND

The Senate amendment changed that portion of section 201(a) of the Social Security Act which appropriates to the trust fund amounts equivalent to 100 percent of the taxes received under the Federal Insurance Contributions Act and covered into the Treasury. Under the amendment amounts appropriated would be determined by reference to the taxes on the total taxable wages and self-employment income reported for tax purposes, rather than by reference to the sum of the collections of such taxes. However, with respect to taxes deposited into the Treasury by collectors of internal revenue before January 1, 1951, the amount appropriated will be determined in the same manner as under the present method. After that date and for an additional period of 2 years ending with the close of 1952, collectors of internal revenue would be required to continue to account separately for collections of such taxes which had been assessed but not collected before January 1, 1951. The House bill contained no comparable provision. The conference agreement adopts the Senate amendment.

The House bill continued the provisions of existing law which appropriate to the trust fund, in addition to the taxes, any interest, penalties, or additions to the taxes collected under the old-age and survivors insurance program. The Senate amendment did not appropriate to the trust fund any such interest, penalties, or additions to the taxes. Nor does the conference agreement appropriate to the trust fund any interest, penalties, or additions to the taxes. It is believed, however, that the fact that no interest, penalties, or additions to the taxes are appropriate to the trust fund should be given consideration in determining the ***3502** estimated amounts of administrative expenses charged to the trust fund by the Treasury Department for the performance of its duties in collecting the taxes under the old-age and survivors insurance program, although it is recognized that no fixed amount can be assigned to this factor.

PAYMENTS OF SPECIAL REFUNDS FROM TRUST FUND

The House bill changed section 201(f) of the Social Security Act to require that refunds of the taxes collected for the old-age and survivors insurance program be made from the trust fund beginning January 1, 1950. The Senate amendment continued the provisions of existing law which appropriate to the trust fund amounts equivalent to 100 percent of the taxes collected for the old-age and survivors insurance program, except that such amounts would be determined by reference to the taxes on the total taxable wages and self-employment income reported for tax purposes, rather than by reference to the sum of the collections of such taxes. The Senate amendment did not expressly authorize refunds of such taxes to be made from the trust fund. An adjustment for erroneous payments of employer and employee taxes would automatically have been made in the trust fund by means of the new appropriation procedure provided under the Senate amendment.

The conference agreement requires the managing trustee to pay from the trust fund into the Treasury the amount estimated by him as taxes which are subject to refund under section 1401(d) of the Internal Revenue Code with respect to wages paid after December 31, 1950. Such taxes are to be determined on the basis of the records of wages established and maintained by the Federal Security Administrator in accordance with the wages reported to the Commissioner of Internal Revenue pursuant to section 1420(c) of the Internal Revenue Code. The Federal Security Administrator is required to furnish the managing trustee such information as may be required by the trustee for making such estimates. The payments by the managing trustee are required to be covered into the Treasury as repayments to the account for refunding internal revenue collections.

RETURN OF SELF-EMPLOYMENT TAX

Under the House bill the provisions imposing the tax on self-employment income were included in the Internal Revenue Code as subchapter F of chapter 9, so that such tax was levied as one of the employment taxes subject to the administrative provisions relating to miscellaneous taxes. The Senate amendment included the provisions imposing the self-employment tax as subchapter E of chapter 1 of the code, relating to the income tax. Under the Senate amendment the self-employment tax would be levied, assessed, and collected as part of the income tax imposed by chapter 1 of such code, except that it would not be taken into account for purposes of the estimated tax. In view of the close connection ***3503** between the self-employment tax and the present income tax, and in the interest of simplicity for taxpayers and economy in administration, your conferees believe that it is preferable to have the tax on self-employment income handled in all particulars as an integral part of the income tax. The conference agreement therefore adopts the provisions of the Senate amendment with respect to the integration of the self-employment tax with the income tax under chapter 1. Thus, except as otherwise expressly provided, the self-employment tax will be included with the normal tax and surtax under chapter 1 in computing any overpayment or deficiency in tax under such chapter and in computing the interest and any additions to such overpayment, deficiency, or tax. The self-employment tax will be subject to the jurisdiction of the Tax Court to the same extent and in the same manner as other taxes under chapter 1.

Subsection (a) of section 482 of the code, as added by the Senate amendment, would require every individual (other than a nonresident alien) having net earnings from self-employment of $400 or more for the taxable year to file a return containing such information for the purpose of carrying out the provisions of the subchapter imposing the tax on self-employment income as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury shall be regulations, prescribe. Such a return would be considered a return required under section 51(a), and the provisions applicable to returns under section 51(a) would be applicable to such return. However, the tax on self-employment income, in the case of a joint return of husband and wife, is the sum of the taxes computed on the separate self-employment income of each spouse. With respect to the tax on self-employment income, the requirement of section 51(b) that in the case of a joint return the tax is computed on the aggregate income of the spouses is not applicable. The conference agreement adopts the Senate provision.

RECEIPTS FOR EMPLOYEES

The Senate amendment contained a provision relating to receipts for employees, which is similar to the existing section 1625 of the code, relating to receipts for income tax withheld (the Form W-2 furnished to employees). The provision would supersede section 1625, and section 1403 (relating to employee receipts for social-security tax withheld), of the code with respect to wages paid after December 31, 1950, and would provide for one receipt which would give the employee full information (1) as to his wages subject to employee social-security tax, and the amount deducted and withheld from him as

such tax, and (2) as to his wages subject to income-tax withholding and the amount deducted and withheld as such tax. The House bill contained no comparable provision. The conference agreement, by adding a new section 1633 to the code, adopts the provisions of the Senate amendment, relating to receipts, with conforming amendments to reflect the elimination of the Senate provisions relating to combined withholding.

***3504** The Senate amendment contained a provision, relating to penalties, which corresponds to the existing section 1626(a) and (b) of the code. The amendment provided penalties applicable in the case of a fraudulent statement and in the case of a failure to file a statement required under the provision discussed in the preceding paragraph. The provision was applicable with respect to wages paid after December 31, 1950. The House bill contained no provision with respect to this matter. The conference substitute, by adding a new section 1634 to the code, adopts the provision of the State amendment.

SPECIAL REFUNDS CREDITABLE AGAINST INCOME TAX

The Senate amendment authorized the Commissioner of Internal Revenue under regulations to permit ‘special refunds‘ to be taken by the taxpayer as a credit against his income tax. The Senate amendment amended section 322(a) of the code by authorizing the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, to prescribe regulations which would permit the employee-taxpayer to claim credit against his income-tax liability under chapter 1 of the code for employee social-security tax withheld on his wages in excess of $3,600 received during the calendar year by reason of his employment by two or more employers. ‘Special refunds‘ so credited would be treated for all purposes in the same manner as amounts withheld as tax under subchapter D of chapter 9 of the code. This provision of the Senate amendment is only applicable with respect to ‘special refunds‘ of employee social-security tax on wages paid after December 31, 1950. Nor may ‘special refunds‘ be claimed as a credit against the tax for any taxable year beginning before January 1, 1951.

The House bill contained no comparable provision. The conference agreement adopts the language of the Senate’s provision.

PERIODS OF LIMITATION ON ASSESSMENTS AND REFUNDS

Under existing law, the periods of limitations on taxes imposed by chapter 9 are prescribed in section 3312 of the Internal Revenue Code, relating to assessments and collections, and section 3313, relating to refunds and credits. In general, those sections provide a 4-year period of limitation on both assessments and refunds, and a 5-year period for bringing a proceeding in court for collection without assessment. On the other hand, the general rule of the income tax is that assessment must be made and refund must be claimed in the 3-year period after the return is filed, except that if no return is filed refund must be claimed within 2 years after the tax is paid, and in any event refund may be claimed within such 2-year period. The Senate amendment provided special periods of limitation similar to those provided for income tax in the case of those taxes under the Federal Insurance Contributions Act, the income-tax-withholding provisions, and the combined withholding provisions, which are collected and paid under a ***3505** return system. The House bill contained no provision with respect to this matter. The conference agreement adopts the provisions of the Senate amendment, with conforming amendments to reflect the elimination of the provisions relating to combined withholding.

The conference agreement provides, by inserting new sections 1635 and 1636 in chapter 9 of the code, special periods of limitation which are applicable to such of the taxes under the Federal Insurance Contributions Act, and the income-tax-withholding provisions, as are collected and paid under a return system. These provisions are in lieu of the provisions of sections 3312 and 3313 with respect to those taxes. However, the provisions of sections 3312 and 3313 will be applicable to any taxes imposed by the Federal Insurance Contributions Act and subchapter D of chapter 9 of the code (relating to income-tax withholding) which the Commissioner of Internal Revenue may require to be collected and paid, not by making and filing returns, but by stamp or by other authorized methods. The periods of limitations prescribed by sections 1635 and 1636 are measured from the date the return is filed, which date is subject to the conclusive presumption described in the next sentence. Returns for any period in a calendar year, such as quarterly returns, which are filed before March 15 of the succeeding calendar year are deemed filed (and tax paid at the time of filing such returns is deemed paid) on March 15 of such succeeding calendar year, so that the period of limitations with respect to the tax for any part of a calendar year will run uniformly from a date in the succeeding year which corresponds to the filing date for income-tax returns.

The periods of limitation prescribed by sections 1635 and 1636 will be applicable only to taxes imposed with respect to

remuneration paid during any calendar year before 1951 will continue to be subject to sections 3312 and 3313.

MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS, ETC.

The Senate amendment would add to the code a new section (sec. 3812) not included in the House bill, relating to the mitigation of the effect of the statute of limitations and other provisions in case of related taxes under different chapters. This section is made necessary by the fact that adjustments to the wages under the Federal Insurance Contributions Act may, by reason of the effect of such wages on the $3,600 limitation applicable in determining self-employment income, affect the tax under the Self-Employment Contributions Act, and by reason of the fact that an item of income may be erroneously reported as taxable under one act when it should have been taxable under the other act. If adjustment under only one of the two acts is prevented by the statute of limitations or any other law or rule of law (other than sec. 3761 of the code, relating to compromises), then the adjustment (that is, the assessment or the credit or refund) otherwise authorized under the one act will ***3506** reflect the adjustment which would have been made under the other act but for such law or rule of law. The conference agreement adopts the language of the Senate amendment.

COLLECTION OF TAXES IN VIRGIN ISLANDS AND PUERTO RICO

The House bill and the Senate amendment both provided that, notwithstanding any other provision of law respecting taxation in the Virgin Islands or Puerto Rico, all taxes imposed by the Self-Employment Contributions Act and the Federal Insurance Contributions Act shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. This provision is retained in the conference agreement. In addition, the conference agreement provides that all provisions of the internal-revenue laws of the United States relating to the administration and enforcement (such as the provisions relating to the ascertainment, return, determination, redetermination, assessment, collection, remission, credit, and refund) of the tax imposed by the Self-Employment Contributions Act, including the provisions relating to the Tax Court of the United States, and of any tax imposed by the Federal Insurance Contributions Act shall, in respect of such tax, extend to and be applicable in the Virgin Islands and Puerto Rico in the same manner and to the same extent as if the Virgin Islands and Puerto Rico were each a State, and as if the term ‘United States‘ when used in a geographical sense included the Virgin Islands and Puerto Rico.

COMBINED WITHHOLDING OF INCOME AND EMPLOYEE SOCIAL SECURITY TAXES

The Senate amendment provided under certain conditions for the combined withholding of the income tax at source on wages under subchapter D of chapter 9 of the code and of the employees’ tax under the Federal Insurance Contributions Act. The House bill contained no provision with respect to combined withholding. The conference agreement contains no such provision.

PUBLIC ASSISTANCE AND MATERNAL AND CHILD HEALTH AND CHILD WELFARE PROGRAMS

PUBLIC ASSISTANCE

REQUIREMENTS FOR STATE PLANS

Opportunity for a fair hearing

The House bill provided with respect to all categories of public assistance for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance is denied or is not acted upon within a reasonable time. The Senate amendment provided for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance is denied or is not acted ***3507** upon with reasonable promptness.The conference agreement follows the Senate amendment.

Training program for personnel

The House bill provided with respect to all categories of public assistance for a training program for the personnel necessary to the administration of each plan. The Senate amendment contained no such provision. Most public assistance agencies have developed training programs which are being used to advantage in the efficient expenditure of public funds. The further establishment and expansion of such programs should be encouraged, but this is left as a matter for State initiative. The conference agreement, therefore, contains no such provision.

Opportunity to apply for and to receive assistance promptly

The House bill provided with respect to all categories of public assistance that all individuals wishing to make application for assistance, shall have opportunity to do so and that assistance shall be furnished promptly to all eligible individuals. The Senate amendment provided that all individuals wishing to make application for old-age assistance shall have opportunity to do so and that old-age assistance shall be furnished with reasonable promptness to all eligible individuals. The conference agreement follows the Senate amendment.

The requirement to furnish assistance ‘with reasonable promptness‘ will still permit the States sufficient time to make adequate investigations but will not permit them to establish waiting lists for individuals eligible for assistance.

Residence provisions

The Senate amendment added a provision to the present residence requirement with respect to aid to dependent children which would prevent the States from denying assistance with respect to any child who was born within 1 year immediately preceding the application for assistance if the parent or other relative with whom the child is living has resided in the State for 1 year immediately preceding the birth. The House bill contained no such provision. The conference agreement follows the Senate amendment.

For aid to the blind, the House bill provided that the State could not, as a condition of eligibility, require residence in the State of more than 1 year immediately prior to filing the application for aid. The Senate amendment did not contain any such provision. The conference agreement does not contain any such provision.

Special requirements for aid to the blind

The House bill provided that a State might disregard such amount of earned income up to $50 per month as the State vocational rehabilitation agency for the blind certifies will encourage and assist the blind to prepare or engage in remunerative employment. It also provided ***3508** that the State must take into consideration the special expenses arising from blindness and must disregard income or resources not predictable or actually available. The Senate amendment provided that prior to July 1, 1952, a State might disregard earned income up to $50 per month in the discretion of each State. After July 1, 1952, the State would be required to disregard earned income up to $50 per month. The conference agreement follows the Senate amendment.

The House bill provided that any State which did not have an approved plan for aid to the blind on January 1, 1949, could have its plan approved even though it did not meet the requirements of clause (8) of section 1002(a) of the Social Security Act relating to the consideration of income and resources in determining need. It was specified, however, that the Federal participation would be limited to payments made to individuals whose income and resources had been taken into consideration in the manner required by such clause 1002(a) (8). Under the House bill these provisions would have been effective for the period beginning October 1, 1949, and ending June 30, 1953. Under the Senate amendment they would have been permanent. The conference agreement provides that they shall be effective for the period beginning October 1, 1950, and ending June 30, 1955.

The House bill provided that in determining blindness there must be an examination by a physician skilled in diseases of the

eye or by an optometrist. The Senate amendment provided that in determining blindness there must be an examination by a physician skilled in diseases of the eye. It further provided that the services of an optometrist within the scope of the practice of optometry, as prescribed by the laws of the State, shall be made available to recipients of aid to the blind as well as to recipients of any grant-in-aid program for improvement or conservation of vision. The conference agreement follows the House provision with an amendment providing that after June 30, 1952, an applicant for aid to the blind may select either a physician skilled in diseases of the eye or an optometrist to make the examination.

FEDERAL SHARE OF EXPENDITURES

The House bill provided with respect to old-age assistance and aid to the blind for Federal participation to the extent of four-fifths of the first $25 of the State's average monthly payment per recipient, plus one-half of the next $10 of the average, plus one-third of the remainder of the average within the individual maximums of $50. The Senate amendment retained the formula in the present law with the exception of a special provision in the old-age-assistance title reducing the Federal percentage contributed toward assistance payments to certain individuals who were also primary insurance beneficiaries under the old-age and survivors insurance program. Under existing law the Federal share is three-fourths of the first $20 of the State's average monthly payment plus one-half of the remainder within individual maximums of $50. The conference agreement follows existing law.

***3509** With respect to aid to dependent children the House bill provided for Federal participation to the extent of four-fifths of the first $15 of the State's average monthly payment per recipient, plus one-half of the next $6 of the average payment, plus one-third of the remainder of the average payment within the individual maximums of $27 for the relative with whom the children are living, $27 for the first child, and $18 for each additional child. The Senate amendment retained the present formula for determining the Federal percentage contributed toward assistance payments to $30 for the relative with whom the children are living, $30 for the first child and $20 for each additional child. Under existing law the Federal share is three-fourths of the first $12 of the average monthly payment per child, plus one-half of the remainder within individual maximums of $27 for the first child and $18 for each additional child in a family. The conference agreement retains existing law with respect to the maximums for children and the formula and provides a maximum of $27 with respect to the relative with whom the children are living.

MEDICAL CARE

The House bill provided with respect to all categories of public assistance that the term 'assistance' might include money payments to, or medical payments in behalf of, needy individuals. The Senate amendment provided for the inclusion of money payments to, or medical care in behalf of, or any type of remedial care recognized under State law in behalf of, needy individuals. The conference agreement follows the Senate amendment. The addition of remedial care was to make it clear that assistance includes the services of Christian Science practitioners.

ESTABLISHMENT OF A NEW PROGRAM OF AID TO THE PERMANENTLY AND TOTALLY DISABLED

The House bill provided for a new title XIV of the Social Security Act making Federal grants-in-aid available to needy permanently and totally disabled individuals. The Senate amendment contained no such provision.

The conference agreement provides for a new title XIV under which aid would be provided to needy permanently and totally disabled individuals 18 years of age and older. The maximum residence requirement that a State might impose is established at 5 out of the last 9 years and 1 year immediately preceding the application. The plan requirements and provisions for medical care are identical with those established by the conference agreement for old-age assistance. Likewise the Federal share of expenditures will be three-fourths of the first $20 of the State's average monthly payment plus one-half of the remainder within an individual's maximum of $50, as in the case of old-age assistance.

***3510** Although assistance would be confined to those who are permanently and totally disabled, it is recognized that with proper training, some of the individuals aided possibly could be returned to a condition of self-support. With the authorizations for an assistance program to cover this group it is believed that the State public assistance agencies will work

even more closely than before with State rehabilitation agencies in developing policies which will assure that every individual for whom vocational rehabilitation is feasible will have an opportunity to be rehabilitated. To the extent that such efforts are successful the assistance rolls will be lowered.

PUERTO RICO AND THE VIRGIN ISLANDS

The House bill provided that all categories of public assistance be extended to Puerto Rico and the Virgin Islands. The Federal share of expenditures was limited to 50 percent. The maximums on individual payments with respect to old-age assistance, aid to the blind, and aid to the permanently and totally disabled, were $30 per month. For aid to dependent children the maximums were $18 with respect to the first child and $12 with respect to each of the other dependent children in the same home. The Senate amendment contained no such provision. The conference agreement follows the House bill, but limits the total amount authorized to be certified by the Federal Security Administrator in all four categories with respect to any fiscal year to $4,250,000 for Puerto Rico and $160,000 for the Virgin Islands.

MATERNAL AND CHILD HEALTH AND CHILD WELFARE

MATERNAL AND CHILD HEALTH

The Senate amendment provided for increasing the authorization for annual appropriations for maternal and child health from $11,000,000 to $20,000,000 with the $35,000 uniform allotment to each State increased to $60,000. The House bill contained no such provision. The conference agreement provides for the fiscal year beginning July 1, 1950, an authorization of $15,000,000 and for each fiscal year thereafter $16,500,000, and in each case the uniform allotment to each State is to be $60,000.

CRIPPLED CHILDREN

The Senate amendment provided for an increase in the amount authorized to be appropriated annually with respect to crippled children to $15,000,000 with the annual uniform allotment to each State to be increased to $60,000. The House bill contained no such provision. The conference agreement provides for the fiscal year beginning July 1, 1950, for an authorization of $12,000,000 and for each year thereafter $15,000,000. In each case the uniform allotment is to be $60,000.

CHILD WELFARE SERVICES

The House bill provided for an authorization for annual appropriation for child welfare services of $7,000,000 with the $20,000 uniform allotment ***3511** to each State increased to $40,000. A specific provision was made authorizing expenditures for returning any runaway child under age 16 from one State to his own community in another State if such return is in the interest of the child and the cost cannot otherwise be met. The Senate amendment provided for increasing the amount authorized to be appropriated annually to $12,000,000, with the allotments to the States to be on the basis of rural population under the age of 18. It also provided that in developing the various services under the State plans, the States would be free, but not compelled, to utilize the facilities and experience of voluntary agencies for the care of children in accordance with State and community programs and arrangements. The Senate amendment retained the increased $40,000 allotment and the provision relating to runaway children that were in the House bill. The conference agreement follows the Senate amendment, except that the amount authorized to be appropriated annually is $10,000,000.

MISCELLANEOUS

DEFINITIONS

The Senate amendment contained a provision, not in the House bill, defining for the purposes of the Social Security Act the

term ‘physician‘, ‘medical care,‘ and ‘hospitalization‘ to include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law. The conference agreement follows the Senate amendment.

DISCLOSURE of INFORMATION

The House bill retained existing law with respect to disclosure of information and in addition specifically authorized the Federal Security Administrator to release, upon request, and to charge fees for, (1) wage-record information for State unemployment-compensation agencies, (2) special reports on individual wage records, and (3) special statistical studies and compilations of data relating to social-security programs.

The Senate amendment authorized the Administrator to release, upon request, and to charge fees for (1) wage-record information to State agencies administering unemployment-compensation laws and (2) special statistical studies and compilations of data relating to social-security programs. The Senate amendment required the Administrator to furnish wage-record information to a wage earner or his agent designated in writing (or, after death, his wife, child, or parent). The Senate amendment did not authorize any other disclosures.

The conference agreement retains existing law respecting the authority for disclosure of information and authorizes the Administrator to charge fees for the information furnished. In addition, it requires the Administrator to furnish wage-record information to the legal representative of an individual or to the legal representative of the estate of a diseased individual.

***3512** ADVANCES TO STATE UNEMPLOYMENT FUNDS

The Senate amendment contained a provision, not in the House bill, making operative until December 31, 1951, title XII of the Social Security Act providing for advances to the accounts of States in the Unemployment Trust Fund. The conference agreement adopts the Senate provision.

SERVICES FOR COOPERATIVES PRIOR TO 1951

The Senate amendment provided that wages paid to an individual, for service performed prior to 1951 in the employ of a farmers cooperative should be deemed to constitute remuneration for employment for benefit purposes if (1) the employer was a farmer cooperative within the meaning of section 101(12) of the Internal Revenue Code; (2) the services constituted agricultural labor within the meaning of section 209(1) of existing law and the corresponding section of the Internal Revenue Code, and except for such sections, would have constituted employment under existing law; (3) the employer paid the taxes imposed by sections 1400 and 1410 of the Internal Revenue Code with respect to the remuneration paid for the services upon the assumption that the services did not constitute agricultural labor; and (4) no refund of such taxes had been obtained. The House bill contained no comparable provision. The conference agreement adopts the Senate amendment.

CERTAIN REINCORPORATIONS PRIOR TO 1951

The Senate amendment provided certain limited relief from the taxes under subchapters A and C of chapter 9 of the Internal Revenue Code, where a corporation incorporated under the laws of one State is succeeded by another corporation incorporated under the laws of another State. There was no corresponding provision in the House bill. The conference agreement adopts the provisions of the Senate amendment. The relief is applicable only in the case of successions taking place at some time during the period of January 1, 1946 to December 31, 1950, both dates inclusive. If all of the conditions specified in the provision are met, the successor may count toward the $3,000 limitation in the definition of wages under such subchapters, before applying such limitation to remuneration paid by the successor to its employees in the calendar year in which the succession takes place, the amount of the taxable wages paid by the predecessor in such calendar year to the same employees, as though such wages paid by the predecessor had been paid by the successor; and subject to the applicable statutes of limitation, the successor may be entitled under the provision to a credit or refund, without interest, of certain taxes (together with any interest or penalty thereon) paid by it with respect to certain remuneration which it paid during such calendar year. The credit or refund is limited to employer tax under section 1410 of subchapter A and employer tax under

section 1600 of subchapter C.

***3513** PROVISIONS OF STATE UNEMPLOYMENT COMPENSATION LAWS

The Senate added to the House bill a new section 405 relating to the findings under section 1603 of the Internal Revenue Code and under section 303(b) (1) of the Social Security Act. The conference agreement adopts the Senate amendment in this respect. The present authority of the Secretary of Labor under section 1603 of the Internal Revenue Code and section 303(b) of the Social Security Act is not changed but would merely be delayed in operation by providing:

(1) That no finding shall be made under section 1603(c) of the Internal Revenue Code that a State law no longer contains the provisions specified in subsection 1603(a) unless the State has amended its law;

(2) That a finding under section 1603(c) of the Internal Revenue Code shall become effective on the ninetieth day after the Governor of a State is notified thereof unless the State law is sooner amended to comply substantially with the Secretary's interpretation of the applicable provision of section 1603(a), thus, where circumstances require, giving retroactive effect to the finding so as to invalidate any intervening temporary certification to the Secretary of the Treasury and at the same time enabling the State to act in the interim to amend its law;

(3) That no finding that the State is failing to comply substantially with the requirements of section 1603(a) (5) of the Internal Revenue Code shall be based on an application or interpretation of State law with respect to which further administrative or judicial review is provided for under the laws of the State, thereby ensuring that no finding may be made unless further appeal or review is impossible in the particular case;

(4) That there shall be no finding under section 303(b) (1) of the Social Security Act until the question of entitlement to benefits is decided by the highest judicial authority given jurisdiction under State law.

The amendment also permits any cost of litigation to State benefit claimants, if paid by the State, to be included as part of the cost of administration to be paid for from granted funds.

The conference agreement is extended as a temporary measure of a stop gap nature pending reexamination by the appropriate committees during the next session of Congress of the whole field of unemployment insurance legislation to ascertain the desirability of appropriate permanent legislation.

SUSPENDING APPLICATION OF CERTAIN PROVISIONS OF CRIMINAL CODE TO CERTAIN PERSONS

The Senate amendment provided that service or employment of any person to assist the Senate Committee on Finance, or its duly authorized subcommittee, in the investigation of the Social Security Act program ordered ***3514** by Senate Resolution 300 shall not be considered as service or employment bringing such per son within certain provisions of law relating to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States.The House bill contained no such provision. The conference agreement adopts the Senate amendment.

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CONF. REP. 81-2771, Conf. Rep. No. 2771, 81ST Cong., 2ND Sess. 1950, 1950 U.S.C.C.A.N. 3482, 1950 WL 1788 (Leg.Hist.)