

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

Office Correspondence

Date January 13, 1937

To Chairman Eccles
From Mr. VestSubject: Proposed amendments to Social
Security Act to bring member banks
thereunder.

GPO 10-852

Federal Reserve banks, national banks, and State member banks are not subject to the existing provisions of the Social Security Act, because they have been held to be "instrumentalities of the United States" which are expressly exempted from the provisions of that Act, but nonmember State banks are subject to its provisions, as they are not instrumentalities of the United States.

There are attached copies of proposed amendments to the Social Security Act which have been prepared by the Social Security Board in collaboration with representatives of the American Bankers Association. Mr. Emerson, of the Social Security Board, explained the proposed amendments to Mr. Ransom, Mr. Dreibelbis, and myself this morning.

Under the proposed amendments, instrumentalities of the United States would not be exempt from the Social Security Act unless they are (1) wholly owned, directly or indirectly, by the United States, or (2) exempt from the taxes imposed by the Social Security Act by virtue of any other Act of Congress. This means that (a) national banks and State member banks would be subject to the provisions of the Act; (b) corporations such as the Reconstruction Finance Corporation, being wholly owned by the United States, would continue to be exempt from the Act; and (c) corporations such as the Federal Reserve banks, which are exempt from Federal, State and local taxation except taxes upon real estate, would also continue to be exempt from the provisions of the Act. The proposed amendments contain the necessary technical changes to accomplish these objects.

Mr. Emerson left copies of the proposed amendments with us with the understanding that we would call him tomorrow to let him know whether we had any suggestions with regard to the amendments. At Mr. Ransom's suggestion, therefore, this memorandum is being addressed to you in order that you may have an opportunity to consider the amendments if you so desire. If no suggestions are received before lunch time tomorrow, January 14, I will call Mr. Emerson in the afternoon and state that we have no suggestions to offer concerning the amendments.

Respectfully,



George B. Vest,
Assistant General Counsel.

Section . Sections 210(b)(5), 811(b)(6) and 907(c)(5)
of said Act are amended, respectively, to read as follows:

"Service performed in the employ of the
United States Government, or of an instrumentality
of the United States which is either (1) wholly
owned, directly or indirectly, by the United States,
or (2) exempt from the taxes imposed by this Act by
virtue of any other Act of Congress."

Section . Sections 210(b)(6), 811(b)(7) and 907(c)(6)
of said Act are amended, respectively, to read as follows:

"Service performed in the employ of a State, a
political subdivision thereof, or an instrumentality
of one or more States or political subdivisions which
is either (1) wholly owned, directly or indirectly, by
one or more States or political subdivisions, or (2)
wholly exempt from the taxes imposed by this Act by
virtue of the Constitution of the United States."

Section . Section 906 of said Act is amended by inserting the letter "(a)" after "Sec. 906." and by adding at the end of said section the following:

"(b) The legislature of each State may require any instrumentality of the United States (except such as are either (1) wholly owned, directly or indirectly, by the United States, or (2) exempt from the taxes imposed by this Act by virtue of any other Act of Congress), and the individuals in its employ, to make payments to an unemployment fund under a State unemployment compensation law approved by the Board under section 903 and (except as provided in sections 5240 and 5241 of the Revised Statutes, as amended, and as modified by subsection (c) of this section) to comply otherwise with such law; provided, that the permission granted in this subsection shall apply only to the extent that no discrimination is made against any such instrumentality, so that if the rate of contribution is uniform upon all other persons subject to such law on account of having individuals in their employ, and upon all employees of such persons, respectively, the contributions required of such instrumentality or the individuals in its employ shall not be at a greater rate than is required of such other persons and such employees, and if the rates are determined separately for different persons or classes of persons having individuals in their employ or for different classes of employees, the determination shall be based solely upon unemployment experience and other factors bearing a direct relation to unemployment risk; provided further, that the permission granted in this subsection shall apply only if such State law makes provision for the refund of any payments required under such law from an instrumentality of the United States or its employees for any year in the event said State is not certified by the Board under section 903 with respect to such year.

"(c) Nothing contained in section 5240 or 5241 of the Revised Statutes, as amended, shall prevent any State from requiring any national banking association to render returns and reports relative to the association's employees, their remuneration and services, to the same extent that other persons are required to render like returns and reports under a State law requiring payments to be made into an unemployment fund. The Comptroller of the Currency shall, upon receipt of a copy of any such return or report of a national banking association from, and upon request of, any duly authorized official, body, or commission of a State, cause an examination of the correctness of such return or report to be made at the time of the next succeeding examination of such association, and shall thereupon transmit to such official, body, or commission a complete statement of his findings respecting the accuracy of such return or reports.

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Section . Paragraph (5) of subsection (a) of section 303 is amended to read as follows:

"(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund in the payment of unemployment compensation (exclusive of expenses of administration) and for refunds to such persons as may be legally entitled thereto; and"

Section . Paragraph (4) of subsection (a) of section 903 is amended to read as follows:

"(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation (exclusive of expenses of administration) and for refunds to such persons as may be legally entitled thereto;"