in unemployment trust fund established pursuant to section 1104 of title 42 an account to be known as the railroad unemployment insurance administration fund, for provisions which established railroad unemployment insurance administration fund in Treasury of United States.


1940—Subsec. (d). Act Oct. 10, 1940, substituted provisions relating to transfer of balance remaining in fund in excess of $6,000,000, for provisions relating to lapsing of fund, carryovers to surplus or other fund, and transfers from fund.

1939—Subsec. (b). Act June 20, 1939, §14, substituted "Such advance shall be repaid from the fund at" for "including personal services in the District of".

Subsec. (c). Act June 20, 1939, §15, substituted "including personal services in the District of" for "Such advance shall be repaid from the fund at".

Effective Date of 1988 Amendment
Amendment by Pub. L. 100–467 applicable with respect to compensation paid in months beginning after Sept. 30, 1988, see section 353 of this title.

Effective Date of 1975 Amendment

Effective Date of 1974 Amendment

Effective Date of 1973 Amendment

Effective Date of 1971 Amendment

Effective Date of 1958 Amendment
Amendment by Pub. L. 85–927 effective Sept. 6, 1958, except as otherwise indicated, see section 307(d) of Pub. L. 85–927, set out as a note under section 351 of this title.

Effective Date of 1946 Amendment
For effective date of amendment by act Oct. 10, 1940, see section 1 of Pub. L. 100–467, set out as a note under section 353 of this title.

Transfer of Functions

§ 362. Duties and powers of Board
(a) Witnesses; subpenas, service, fees, etc.

For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, or relative to any other matter within its jurisdiction under this chapter, the Board shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence, documentary or otherwise, that relates to any matter under investigation or in question, before the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirma-

(b) Enforcement of subpenas by courts; contempt; service of orders, writs, or processes

In case of contumacy by, or refusal to obey a subpenna lawfully issued to, any person, the Board may invoke the aid of the district court of the United States or the United States courts of any Territory or possession, where such person is found or resides or is otherwise subject to service of process, or the United States District Court for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, or the United States District Court for the Northern District of Illinois, if the investigation or proceeding is being carried on in the Northern District of Illinois, in requiring the attendance and testimony of witnesses and the production of evidence. Any such court shall issue an order requiring such person to appear before the Board or its specified employee or representative at the place specified in the subpena of the Board, whether within or without the judicial district of the court, there to produce evidence, if so ordered, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. All orders, writs, and processes in any such proceeding may be served in the judicial district of the district court issuing such order, writ, or process, except that the orders, writs, and processes of the United States District Court for the District of Columbia or of the United States District Court for the Northern District of Illinois in such proceedings may run and be served anywhere in the United States.


(d) Information as confidential

Information obtained by the Board in connection with the administration of this chapter shall not be revealed or open to inspection nor be published in any manner revealing an employee’s identity: Provided, however, That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this chapter; (ii) the Board may disclose such information in cases in which the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this chapter; (ii) the Board may disclose such information in cases in which the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirma-

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from the Board’s records pertaining to his claim; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant’s identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 353 of this title. Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 361(a) of this title; and the amounts so paid to the Board may enter also into agreements with any other unemployment-compensation law, employment (and compensation therefor) included within the provisions of such unemployment or sickness compensation law, employment (and compensation therefor), the Board is authorized to reimburse such State such portion of such unemployment or sickness benefits as the Board deems equitable; such reimbursements shall be paid from the account, and are included within the meaning of the word “benefits” as used in this chapter.

(f) Cooperation with other agencies administering unemployment or sickness compensation laws; agreements

The Board may cooperate with or enter into agreement with the appropriate agencies charged with the administration of State, Territorial, Federal, or foreign unemployment-compensation or sickness laws or employment offices, with respect to investigations, the exchange of information and services, the establishment, maintenance, and use of free employment-service facilities, and such other matters as the Board deems expedient in connection with the administration of this chapter, and may compensate any such agency for services or facilities supplied to the Board in connection with the administration of this chapter. The Board may establish, maintain, and operate free employment offices facilities maintained pursuant to such agreements or arrangements with employers, organizations of employers, and railway-labor organizations which are duly organized in accordance with the provisions of the Railway Labor Act [45 U.S.C. 151 et seq.], for securing the performance of services or the use of facilities in connection with the administration of this chapter, and may compensate any such employer or organization therefor upon such reasonable basis as the Board shall prescribe, but not to exceed the additional expense incurred by such employer or organization by reason of the performance of such services or making available the use of such facilities pursuant to such agreements or arrangements. Such employers and organizations, and persons employed by either of them, shall not be subject to section 209 of title 18.

(i) Free employment offices; registration of unemployed; statements of sickness; reemployment

The Board may cooperate with or enter into agreements or arrangements with employers, organizations of employers, and railway-labor organizations which are duly organized in accordance with the provisions of the Railway Labor Act [45 U.S.C. 151 et seq.], or (ii) any other labor organization which has been or may be organized in accordance with the provisions of the Railway Labor Act, or (iii) one or more employers, or (iv) an organization of employers, or (v) a State, Territorial, foreign, or the Federal Government. The Board may also enter into agreements or arrangements with one or more of such laws, or performed services which constitute employment as defined in this chapter: Provided, That the Board finds that any such agreement is fair and reasonable as to all affected interests.

(g) Benefits also subject to a State law; mutual reimbursement

In determining whether an employee has qualified for benefits in accordance with section 353 of this title, and in determining the amount of benefits to be paid to such employee in accordance with section 352(a) and (c) of this title, the Board is authorized to consider as employment (and compensation therefor) services for hire other than employment (and remuneration therefor) if such services for hire are subject to an unemployment or sickness compensation law of any State, provided that such State has agreed to reimburse the United States such portion of the benefits to be paid upon such basis to such employee as the Board deems equitable. Any amounts collected pursuant to this paragraph shall be credited to the account. If a State, in determining whether an employee is eligible for unemployment or sickness benefits under an unemployment or sickness compensation law of such State, and in determining the amount of unemployment or sickness benefits to be paid to such employee pursuant to such unemployment or sickness compensation law, considers as services for hire (and remuneration therefor) included within the provisions of such unemployment or sickness compensation law, employment (and compensation therefor), the Board is authorized to reimburse such State such portion of such unemployment or sickness benefits as the Board deems equitable; such reimbursements shall be paid from the account, and are included within the meaning of the word “benefits” as used in this chapter.
more employers or railway labor organizations organized in accordance with the provisions of the Railway Labor Act, pursuant to which notice of the availability of work and the rights of employees with respect to such work under agreements between such employers and railway labor organizations may be filed with employment offices and pursuant to which employees registered with employment offices may be referred to such work.

The Board shall prescribe a procedure for registration of unemployed employees at employment offices. Such procedure for registration shall be prescribed with a view to such registration affording substantial evidence of the days of unemployment of the employees who register. The Board may, when such registration is made personally by an employee, accept such registration as initial proof of unemployment sufficient to certify for payment a claim for benefits.

The Board shall provide a form or forms for statements of sickness and a procedure for the execution and filing thereof. Such forms and procedure shall be designed with a view to having such statements provide substantial evidence of the days of sickness of the employee. Such statements may be executed by any doctor (authorized to practice in the State or foreign jurisdiction in which he practices his profession) or any officer or supervisory employee of a hospital, clinic, group health association, or other similar organization, who is qualified under such regulations as the Board may prescribe to execute such statements. The Board shall issue regulations for the qualification of such persons to execute such statements. When so executed by any such person, or, in the discretion of the Board, by others designated by the Board individually or by groups, they may be accepted as initial proof of days of sickness sufficient to certify for payment a claim for benefits.

The regulations of the Board concerning registration at employment offices by unemployed persons may provide for group registration and reporting, through employers, and need not be uniform with respect to different classes of employees.

The operation of any employment facility operated by the Board shall be directed primarily toward the reemployment of employees who have theretofore been substantially employed by employers.

(j) Advisory councils; members' remuneration

The Board may appoint national or local advisory councils composed of equal numbers of representatives of employers, representatives of employees, and persons representing the general public, for the purpose of discussing problems in connection with the administration of this chapter and aiding the Board in formulating policies. The members of such councils shall serve without remuneration, but shall be reimbursed for any necessary traveling and subsistence expenses or on a per diem basis in lieu of subsistence expenses.

(k) Reduction of unemployment; training and re-employment of unemployed employees, etc.

The Board, with the advice and aid of any advisory council appointed by it, shall take appropriate steps to reduce and prevent unemployment and loss of earnings; to encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance; to promote the reemployment of unemployed employees; and to these ends to carry on and publish the results of investigations and research studies.

(i) Necessary and incidental powers; employees of Board, employment, remuneration, civil-service laws, registration of unemployed, and detail

In addition to the powers and duties expressly provided, the Board shall have and exercise all the powers and duties necessary to administer or incidental to administering this chapter, and in connection therewith shall have such of the powers, duties, and remedies provided in subdivisions (5), (6), and (9) of section 7(b) of the Railroad Retirement Act of 1974 [45 U.S.C. 231f(b)] with respect to the administration of the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], as are not inconsistent with the express provisions of this chapter. A person in the employment of the Board under section 205 of the Act of Congress approved June 24, 1937 (50 Stat. 307), shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Director of the Office of Personnel Management, he shall pass such noncompetitive tests of fitness as the Director of the Office of Personnel Management may prescribe. A person in the employ of the Board on June 30, 1939, and on June 30, 1940, and who has had experience in railroad service, shall acquire a competitive classified civil-service status if, after recommendation by the Board to the Director of the Office of Personnel Management, he shall pass such noncompetitive tests of fitness for the position for which the Board recommends him as the Director of the Office of Personnel Management may prescribe.

The Board may employ such persons and provide for their remuneration and expenses, as may be necessary for the proper administration of this chapter. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5: Provided, That in the employment of such persons the Board shall give preference, as between applicants attaining the same grades, to persons who have had experience in railroad service, and notwithstanding any other provisions of law, rules, or regulations, no other preference shall be given or recognized: And provided further, That certification by the Director of the Office of Personnel Management of persons for appointment to any positions at minimum salaries of $4,600 per annum, or less, shall, if the Board so requests, be upon the basis of competitive examinations, written, oral, or both, as the Board may request: And provided further, That, for the purpose of registering unemployed employees who reside in areas in which no employer facilities are located, or in which no employer will make facilities available
for the registration of such employees, the Board may, without regard to civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5, appoint persons to accept, in such areas, registration of such employees and perform services incidental thereto, and may compensate such persons on a piece-rate basis to be determined by the Board. Notwithstanding any other provision of law, the Board may detail employees from stations outside the District of Columbia to other stations outside the District of Columbia and may detail employees in the District of Columbia to service outside the District of Columbia: Provided, That all details hereunder shall be made by specific order and in no case for a period of time exceeding one hundred and twenty days. Details so made may, on expiration, be renewed from time to time by order of the Board, in each particular case, for periods not exceeding one hundred and twenty days.

(m) Delegation of powers
The Board is authorized to delegate to any member, officer, or employee of the Board any of the powers conferred upon the Board by this chapter, excluding only the power to prescribe rules and regulations.

(n) Sickness benefits; examinations; information and reports; contracts and expenses for examinations
Any employee claiming, entitled to, or receiving sickness benefits under this chapter may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness benefits shall be payable under this chapter with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee, upon which a claim or right to benefits under this chapter is based, shall furnish the Board, in such manner and form and at such times as the Board by regulations may prescribe, information and reports relative thereto and to the condition of the employee. An application for sickness benefits under this chapter shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness period upon which such application is based: Provided, That such information shall not be disclosed by the Board except to the extent that it will have engaged in any malpractice or other professional misconduct. No fees or charges of any kind shall accrue to any such person from executing statements of sickness or receive fees.

The Board may, after hearing, disqualify any person from executing statements of sickness who, the Board finds, (i) will have solicited, or will have employed another to solicit, for himself or for another the execution of any such statement, or (ii) will have made false or misleading statements to the Board, to any employer, or to any employee, in connection with the awarding of any benefits under this chapter, or (iii) will have failed to submit medical reports and records required by the Board under this chapter, or will have failed to submit any other reports, records, or information required by the Board in connection with the administration of this chapter or any other Act heretofore or hereafter administered by the Board, or (iv) will have engaged in any malpractice or other professional misconduct. No fees or charges of any kind shall accrue to any such person from the Board after his disqualification.

(q) Investigations and research with respect to accidents and disabilities
The Board shall engage in and conduct research projects, investigations, and studies with respect to the cause, care, and prevention of, and benefits for, accidents and disabilities and other subjects deemed by the Board to be related thereto, and shall recommend legislation deemed advisable in the light of such research projects, investigations, and studies.
(r) Duty of Board to make certain computations

(1) Compensation base

On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

(A) in accordance with section 351(l) of this title, the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

(B) the amounts described in section 351(k) of this title, section 352(c) of this title, section 353 of this title, and section 354(a)-(i)(A) of this title that are related to changes in the monthly compensation base.

(2) Maximum daily benefit rate

On or before June 1, 1989, and on or before June 1 of each year thereafter, the Board shall compute, in accordance with section 352(a)(3) of this title the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

(3) Notice in Federal Register and to employers

Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.

(§ 362) "this Act", meaning act June 25, 1938, ch. 680, 52 Stat. Tables. of this Act to the Code, see section 367 of this title and Public Health and Welfare. For complete classification 503 and 1104 and former section 1107 of Title 42, The 1094, which enacted this chapter and amended sections 1937 (50 Stat. 307), referred to in subsec. (l), 231 of this title, section 231t of this title, and Tables. (§ 231 et seq.) of this title. For complete classification of (1) Compensation base

On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

(A) in accordance with section 351(l) of this title, the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

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Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.
substitution had already been executed in accordance with act Oct. 28, 1949.

1955—Subsec. (i). Act Aug. 12, 1955, specifically provided for employees of Railroad Retirement Board to be in and under competitive civil service.


Subsec. (f). Act July 31, 1946, §320, inserted references to sickness or maternity laws and benefits.

Subsec. (g). Act July 31, 1946, §321, inserted references to sickness or maternity laws and benefits and struck out phrase limiting second paragraph to eligibility with respect to unemployment after June 30, 1939.

Subsec. (i). Act July 31, 1946, §322, added third par., providing for form, execution and filing of statements of sickness.

Subsecs. (n) to (q). Act July 31, 1946, §323, added subsec. (n) to (q).


1939—Subsec. (g). Act June 20, 1939, inserted “, with respect to unemployment after June 30, 1939” after ‘employee is eligible” and struck out “June 30, 1939” after “therefor) after”.

CHANGE OF NAME

Subsec. (b) of this section was amended by act June 25, 1948, §32(b), eff. Sept. 1, 1948, as amended by act May 24, 1949, which substituted “United States District Court for the District of Columbia” for “District Court of the United States for the District of Columbia”. “United States District Court for the Northern District of Illinois” substituted for “District Court of the United States for the Northern District of Illinois” in view of act June 25, 1948, which states that “There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district”, and that “Illinois is divided into three judicial districts to be known as the Northern, Southern, and Eastern Districts of Illinois.” See sections 88 and 132 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 7104(d), (e) of Pub. L. 100–647, effective Jan. 1, 1990, see section 7104(f) of Pub. L. 100–647, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT


TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (i) of this section delegated to Chairman of the Railroad Retirement Board by Memorandum of President of the United States, Feb. 2, 2005, 70 F.R. 7831, set out as a note under section 231f of this title.

RAILROAD UNEMPLOYMENT COMPENSATION COMMITTEE

Pub. L. 98–76, title V, § 504, Aug. 12, 1983, 97 Stat. 441, provided that:

“(a) Representatives of railroad labor and railroad management shall jointly establish (and jointly appoint the members of) a committee to be known as the ‘Railroad Unemployment Compensation Committee’ (hereinafter in this section referred to as the ‘Committee’)

“(b) The Committee shall consist of five members—

“(1) two of whom shall be representatives of railroad labor,

“(2) two of whom shall be representatives of railroad management, and

“(3) one of whom shall be an individual who shall not be in the employment of or pecuniarily or otherwise interested in any employer (as defined in section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231)) or any organization of employees (as defined in section 1 of such Act).
Any recommendation submitted under paragraph (2) shall contain adjustments in contributions and benefits helpful in carrying out its duties.

other material which the Committee determines will be department, agency, or instrumentality of the Federal Retirement Account before December 31, 2000.

which will enable the railroad unemployment compensation system to repay all loans from the Railroad compensation system established directly by an Act of Congress, or any term of similar import, used in any unemployment compensation law of any State.

determination of “preliminary amount” for States

The Social Security Board is directed to determine for each State, after agreement with the Railroad Retirement Board, and after consultation with such State, the total (hereinafter referred to as the “preliminary amount”) of (i) the amount remaining as the balances of reserve accounts of employers as of June 30, 1939, if the unemployment compensation law of such State provides for a type of fund known as “Reserve Accounts,” plus (ii) if the unemployment compensation law of such State provides for a type of fund known as “Pooled Fund” or “Pooled Account,” that proportion of the balance of such fund or account of such State as of June 30, 1939, as the amount of taxes or contributions collected from employers and their employees prior to July 1, 1939, pursuant to its unemployment compensation law and credited to such fund or account bears to all such taxes or contributions theretofore collected from all persons subject to its unemployment compensation law and credited to such fund or account; and the additional amounts (hereinafter referred to as the “liquidating amount”) of taxes or contributions collected from employers and their employees from July 1, 1939 to December 31, 1939, pursuant to its unemployment compensation law.

d) Withholding amounts from certification to States; transfers to railroad unemployment compensation account

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 502(a) of title 42 to be necessary for the proper administration of each State’s unemployment-compensation law, until an amount equal to its “preliminary amount” plus interest from July 1, 1939, at 2% per centum per annum on such portion thereof as has not been used as the measure for withholding certification for payment, has been so withheld from certification pursuant to this paragraph: Provided, however, That if a State shall, prior to whichever is the later of (i) thirty days after the close of the first regular session of its legislature which begins after the approval of this chapter, and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund the railroad unemployment insurance account in the unemployment trust fund an amount equal to its “preliminary amount”, no amount shall be withheld from certification for payment to such State pursuant to this paragraph.

The Social Security Board shall withhold from certification to the Secretary of the Treasury