

Effective dates of provisions.
Ante, pp. 1090, 1091.

SEC. 37. Sections 31 and 34 of this Act shall take effect on the date of enactment of this Act. Except as otherwise specially provided in this Act, the remainder of this Act shall take effect on the thirtieth day following the date of its enactment.

Approved, June 25, 1938, 5 p. m., E. S. T.

[CHAPTER 680]

AN ACT

June 25, 1938
[H. R. 10127]
[Public, No. 722]

Railroad Unemployment Insurance Act.

Definitions.

Meaning of terms, except in amending other Acts.
"Employer."

Proviso.
Street, interurban, or suburban electric railways.

Lines operated by electric power, classification.

Inclusion of railroad associations, etc.

44 Stat. 577.
45 U. S. C. ch. 8;
Supp. III, ch. 1.

"Carrier."
24 Stat. 379.
49 U. S. C. ch. 1;
Supp. III, ch. 1.

"Company."

"Employee."

To regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a) The term "employer" means any carrier (as defined in subsection (b) of this section), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer: *Provided, however*, That the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Board, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this proviso. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies, and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or may be organized in accordance with the provisions of the Railway Labor Act, and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitution and bylaws of such organizations.

(b) The term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act.

(c) The term "company" includes corporations, associations, and joint-stock companies.

(d) The term "employee" (except when used in phrases establishing a different meaning) means any individual who is or has been (i) in the service of one or more employers for compensation, or (ii) an

employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in section 1 (a) only if he was in the service of a carrier on or after August 29, 1935. The term "employee" includes an officer of an employer.

An individual is in the service of an employer whether his service is rendered within or without the United States if he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, which service he renders for compensation: *Provided, however,* That an individual shall be deemed to be in the service of an employer not conducting the principal part of its business in the United States only when he is rendering service to it in the United States.

(e) The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term employer as defined in section 1 (a) who before or after August 29, 1935, was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(f) The term "part-time worker" means any employee whose contract of hire (i) provides for regular employment for less than the normal number of hours per day, or less than the normal number of days per month, or both, prevailing for the class of service which he renders to one or more employers, and (ii) does not provide that he shall be continuously subject to call for service for the normal number of hours per day and the normal number of days per month prevailing for the class of service which he renders.

(g) The term "employment" means service performed as an employee.

(h) The term "half-month" means a period of any fifteen consecutive days; but, with respect to any individual no day shall be included in more than one half-month.

(i) The term "compensation" means any form of money, remuneration, including pay for time lost but excluding tips, payable for services rendered as an employee to one or more employers, or as an employee representative: *Provided, however,* That in computing the compensation payable to any employee with respect to any calendar month, no part of any compensation in excess of \$300 shall be recognized.

(j) The term "remuneration" means pay for services for hire, including pay for time lost, and tips, but pay for time lost shall be deemed earned on the day on which such time is lost. The term "remuneration" does not include (i) the voluntary payment by another, without deduction from the pay of an employee, of any tax or contribution now or hereafter imposed with respect to the remuneration of such employee, or (ii) any money payments received pursuant to any nongovernmental plan for unemployment insurance.

(k) Subject to the provisions of section 4 of this Act, a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable to him, and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office: *Provided, however,* That with respect to a part-time worker a calendar day on which he is not normally employed shall not constitute a day of unemployment:

Service without the United States included.

Proviso.
Status of person employed within, for a business without United States.

"Employee representative."

48 Stat. 1185.
45 U. S. C. § 151.

"Part-time worker."

"Employment."

"Half-month."

"Compensation."

Proviso.
Maximum amount recognized.

"Remuneration."

Payments not included.

A day of unemployment.
Post, p. 1098.

Proviso.
Part-time workers.

Where normal shift includes parts of two consecutive calendar days.

"Base year."

And provided further, That, with respect to any employee whose normal work shift includes a part of each of two consecutive calendar days, the term "calendar day", as heretofore used in this subsection, shall mean such equivalent period of twenty-four hours as the Board may by regulation prescribe.

"Benefits."

(l) The term "base year" means the year with respect to which an employee's compensation is used in determining his qualification for, and the amounts of, benefits; and, with respect to any employee, shall be the last completed calendar year before the beginning of his benefit year if his benefit year begins on or after July 1 of any calendar year, and the next to the last completed calendar year before the beginning of his benefit year if his benefit year begins before July 1 of any calendar year.

"Benefit year."

(m) The term "benefits" (except when used in the term "unemployment benefits") means the money payments payable to an employee as provided in this Act, with respect to his unemployment.

"Employment office."

Post, p. 1109.

"Account."

(n) The term "benefit year", with respect to any employee, means the twelve-months period which begins with the first day with respect to which benefits are first payable to him, and thereafter the twelve-months period which begins with the first day with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

"Fund."

Post, p. 1105.

"Board."

"United States."

"State."

References to Acts of Congress.

(o) The term "employment office" means a free employment office operated by the Board, or designated as such by the Board pursuant to section 12 (i) of this Act.

(p) The term "account" means the railroad unemployment insurance account established pursuant to section 10 of this Act in the unemployment trust fund.

(q) The term "fund" means the railroad unemployment insurance administration fund, established pursuant to section 11 of this Act.

(r) The term "Board" means the Railroad Retirement Board.

(s) The term "United States", when used in a geographical sense, means the States, Alaska, Hawaii, and the District of Columbia.

(t) The term "State" means any of the States, Alaska, Hawaii, or the District of Columbia.

(u) Any reference in this Act to any other Act of Congress, including such reference in amendments to other Acts, includes a reference to such other Act as amended from time to time.

Benefits.

BENEFITS

Qualified employees.

SEC. 2. (a) Except as may otherwise be prescribed for part-time workers pursuant to subsection (d) of this section, a qualified employee shall be paid benefits for each day of unemployment in excess of seven during any half-month which begins after June 30, 1939.

Amount for each day of unemployment.

The benefits payable to any such employee for each such day of unemployment shall be the amount appearing in the following table in column II on the line on which, in column I, appears the compensation-range containing the total amount of compensation payable to him with respect to employment in his base year:

Table of rates.

Column I Total compensation	Column II Daily benefit amount
\$150 to \$199.99	\$1.75
\$200 to \$474.99	2.00
\$475 to \$749.99	2.25
\$750 to \$1,024.99	2.50
\$1,025 to \$1,299.99	2.75
\$1,300 and over	3.00

(b) The benefits provided for in this section shall be paid to an employee at such reasonable intervals as the Board may prescribe.

Intervals of payment.

(c) The maximum benefits payable to an employee for unemployment within his benefit year shall not exceed eighty times the daily benefits payable to him.

Yearly maximum, limitation.

(d) The Board shall prescribe regulations for determining the amount of daily benefits, and the maximum benefits during any benefit year, to be payable to part-time workers and for determining the days of unemployment with respect to which such benefits shall be payable. Such regulations shall provide benefits reasonably proportionate to the benefits hereinbefore provided for other employees, with due regard to the compensation payable per month to a part-time worker with respect to his part-time employment, as compared with the compensation per month prevailing in the same locality for employees employed by employers for the full-time hours or days per month prevailing in the locality for the same class of service. Such regulations shall provide also for the payment of such benefits to a part-time worker only with respect to his days of unemployment in excess of a number to be prescribed with due regard to the proportion of full time which he regularly works.

Part-time workers.

(e) The provisions of section 9 of the Railroad Retirement Act of 1937 shall be applicable to benefits under this Act to the same extent and in the same manner as therein provided with respect to annuities, death benefits, and pensions.

Erroneous payments.
50 Stat. 314.
45 U. S. C., Supp. III, § 228i.

(f) No benefits shall be assignable or be subject to any tax or to garnishment, attachment, or other legal process under any circumstances whatsoever, nor shall the payment thereof be anticipated.

Benefits not assignable, etc.

(g) If (i) benefits are paid to any employee with respect to any period, and there is later determined to be payable to such employee any remuneration with respect to such period, and (ii) the person or company from whom such remuneration is payable has, before payment thereof, notice of the payment of such benefits, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent of such benefits, shall be held to be a special fund in trust for the Board. The amount of such special fund shall be paid to the Board and in the collection thereof the Board shall have the same authority, and the same penalties shall apply, as are provided in section 8 of this Act with respect to contributions. The proceeds of such special fund shall be credited to the account. The amount of such benefits, to the extent that it is represented in such a special fund which has been collected by the Board, shall be disregarded for the purposes of subsections (a) and (c) of this section.

If benefits paid and other remuneration payable.

QUALIFYING CONDITIONS

SEC. 3. An employee shall be qualified to receive benefits in accordance with section 2 of this Act only if the Board finds that—

Qualifying conditions.

(a) There was payable to him compensation of not less than \$150 with respect to employment during his base year; and

Minimum base year pay.

(b) Within six months prior to his benefit year and after June 15, 1939, he has had a waiting period of at least fifteen consecutive days of unemployment, or two half-months during each of which he had at least eight days of unemployment. No such period shall be counted for the purposes of this subsection if unemployment benefits have been paid with respect to the whole or any part thereof under this Act, any other Act of Congress, or under any other unemployment-compensation law.

Waiting period.

DISQUALIFYING CONDITIONS

Disqualifying conditions.

Leaving work voluntarily without good cause.

Misconduct.

Failing to accept suitable work without good cause.

Called to report but unavailable.

Unemployment due to strike in violation of law, etc.

48 Stat. 1185.
45 U. S. C. § 151.

False or fraudulent statements.

Receiving similar benefits under designated Acts.

49 Stat. 967; 50 Stat. 307.
45 U. S. C., Supp. III, ch. 9.
49 Stat. 622.
42 U. S. C., Supp. III, §§ 401-410a.

Performance of 25 per centum of maximum employment allowable for calendar month in half-month.

Performance of 50 per centum of maximum employment allowable for calendar month in month.

Strike, etc., disqualification not to apply in specified cases.

Nonparticipants, etc.

Proviso.
Payment of dues not deemed financing strike.

SEC. 4 (a) There shall not be considered as a day of unemployment, with respect to any employee—

(i) any of the thirty days beginning with the day with respect to which the Board finds that he left work voluntarily without good cause;

(ii) any of the forty-five days beginning with the day with respect to which the Board finds that he was discharged or suspended for misconduct related to his work;

(iii) any of the thirty days beginning with the day with respect to which the Board finds that he failed, without good cause, to accept suitable work available on such day and offered to him;

(iv) any of the fifteen days beginning with the day with respect to which the Board finds that he was, with proper notice, called upon to report for suitable work available on such day and was able to work but was not available;

(v) subject to the provisions of subsection (b) of this section, any day with respect to which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, and the Board finds that such strike was commenced in violation of the provisions of the Railway Labor Act or in violation of the established rules and practices of a bona fide labor organization of which he was a member;

(vi) any of the seventy-five days beginning with the first day of any half-month with respect to which the Board finds that he knowingly made or aided in making or caused to be made any false or fraudulent statement or claim for the purpose of causing benefits to be paid;

(vii) any day in any period with respect to which the Board finds that he is receiving, has received, or has a right to receive compensation or other wages in lieu of notice, annuity payments, or pensions under the Railroad Retirement Act of 1935 or the Railroad Retirement Act of 1937, or old-age benefits under title II of the Social Security Act or payments for similar purposes under any other Act of Congress; or he is receiving or has received unemployment benefits under an unemployment compensation law of any State or of the United States other than this Act;

(viii) any day in any half-month with respect to which the Board finds that he performed at least 25 per centum of the maximum employment allowable to him for a calendar month pursuant to a contract of employment providing for the determination of his compensation, wholly or partially, on a mileage basis;

(ix) any day in any calendar month with respect to which the Board finds that he had prior to such day performed at least 50 per centum of the maximum employment allowable to him during such calendar month pursuant to a contract of employment providing for the determination of his compensation, wholly or partially, on a mileage basis.

(b) The disqualification provided in section 4 (a) (v) of this Act shall not apply if the Board finds that—

(i) the employee is not participating in or financing or directly interested in the strike which causes the stoppage of work: *Provided*, That payment of regular union dues shall not be construed to constitute financing a strike or direct interest in a strike within the meaning of this and the following paragraphs; and

(ii) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed in the establishment, premises, or enterprise at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if separate types of work are commonly conducted in separate departments of a single enterprise, each such department shall, for the purposes of this subsection, be deemed to be a separate establishment, enterprise, or other premises.

(c) No work shall be deemed suitable for the purposes of section 4 (a) (iii) or 4 (a) (iv) of this Act, and benefits shall not be denied under this Act to any otherwise qualified employee for refusing to accept work if—

- (i) the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- (ii) the remuneration, hours, or other conditions of work offered are substantially less favorable to the employee than those prevailing for similar work in the locality, or the rate of remuneration is less than the union wage rate, if any, for similar work in the locality;
- (iii) as a condition of being employed he would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;
- (iv) acceptance of the work would require him to engage in activities in violation of law or which, by reason of their being in violation of reasonable requirements of the constitution, bylaws, or similar regulations of a bona fide labor organization of which he is a member, would subject him to expulsion from such labor organization;
- (v) acceptance of the work would subject him to loss of substantial seniority rights under any collective bargaining agreement between a railway labor organization, organized in accordance with the provisions of the Railway Labor Act, and any other employer.

(d) In determining, within the limitations of section 4 (c) of this Act, whether or not any work is suitable for an employee for the purposes of sections 4 (a) (iii) and 4 (a) (iv) of this Act, the Board shall consider, in addition to such other factors as it deems relevant, (i) the current practices recognized by management and labor with respect to such work; (ii) the degree of risk involved to such employee's health, safety, and morals; (iii) his physical fitness and prior training; (iv) his experience and prior earnings; (v) his length of unemployment and prospects for securing work in his customary occupation; and (vi) the distance of the available work from his residence and from his most recent work.

(e) For the purposes of section 4 (a) (i) of this Act, no voluntary leaving of work shall be deemed to have been without good cause if the Board finds that such work would not have been suitable for the purposes of sections 4 (a) (iii) and 4 (a) (iv) of this Act.

CLAIMS FOR BENEFITS

SEC. 5. (a) Claims for benefits and appeals from determinations with respect thereto shall be made in accordance with such regulations as the Board shall prescribe. Each employer shall post and maintain, in places readily accessible to employees in his service, such printed statements concerning such regulations as the Board supplies to him for such purpose, and shall keep available to his employees copies of such printed statements. Such printed statements shall be supplied by the Board to each employer without cost to him.

Person does not belong to class, any of whom are participants, etc.

Proviso.
Enterprise conducting separate types of work.

When work offered deemed not suitable.
Ante, p. 1098.

Position offered is vacant because of labor dispute.
Unfavorable labor conditions.

Labor organization membership.

Acceptance would involve law violation, etc.

Loss of substantial seniority rights, etc.

Additional factors to be considered.

Current recognized practices with respect to such work.

Degree of risk involved.

Physical fitness and training, experience and prior earnings.

Length of unemployment, etc.

Distance of available work.

Voluntary leaving of work defined.

Ante, p. 1098.

Claims for benefits and appeals from determinations; regulations governing.

Findings and decisions of Board.

Hearings before district board when claims have been denied.

Establishment of district boards; composition, etc.

Alternates.

Regulations governing filing of cases, decisions, and reviews.

Intermediate reviews.

Appeals.

Rules of evidence; record of proceedings, etc.

Appeal to district court from final decision of Board; procedure.

48 Stat. 1185.

45 U. S. C. § 151.

Filing of petition for review.

(b) The Board is authorized and directed to make findings of fact with respect to any claim for benefits and to make decisions as to the right of any claimant to benefits. The Board is further authorized to hold such hearings, to conduct such investigations and other proceedings, and to establish, by regulations or otherwise, such procedures as it may deem necessary or proper for the determination of a right to benefits.

(c) Each claimant whose claim for benefits has been denied upon an initial determination with respect thereto, shall be granted an opportunity for a fair hearing thereon before a district board. The Board shall establish such district boards as it may deem necessary to provide for such hearings. Each district board shall consist of three members, one of whom shall be a representative of the Board, who shall serve as chairman, one of whom shall be appointed by the Board from recommendations made by representatives of employees, and one of whom shall be appointed by the Board from recommendations made by representatives of employers. Each of the latter two members shall not be subject to the civil-service laws or rules and shall be paid a per diem salary of such amount as the Board finds reasonable for each day of active service on such district board, plus necessary expenses. The Board may designate an alternate for each member of a district board to serve in the absence or disqualification of such member. In no case shall a hearing before a district board proceed unless the chairman thereof is present. In the absence or disqualification of any other member and his alternate, the chairman shall act alone as the district board.

(d) The Board shall prescribe regulations governing the filing of cases with and the decision of cases by district boards, and the review of such decisions. The Board may provide for intermediate reviews of such decisions by such bodies as the Board may establish or assign thereto. The Board may (i) on its own motion review a decision of a district board or of an intermediate reviewing body on the basis of the evidence previously submitted in such case, and may direct the taking of additional evidence, or (ii) permit such parties as it finds properly interested in the proceedings to take appeals to the Board. Unless a review or an appeal is had pursuant to this subsection, the decision of a district board or of an intermediate reviewing body shall, subject to such regulations as the Board may prescribe, be deemed to be the final decision of the Board.

(e) In any proceeding other than a court proceeding, upon a claim for benefits, the rules of evidence prevailing in courts of law or equity shall not be controlling, but a full and complete record shall be kept of all proceedings and testimony, and the Board's final determination allowing or denying benefits, together with its findings of fact and conclusions of law in connection therewith, shall be communicated to the claimant within fifteen days after the date of such final determination.

(f) Any claimant, and any railway labor organization organized in accordance with the provisions of the Railway Labor Act, of which such claimant is a member, may, only after all administrative remedies within the Board have been availed of and exhausted, obtain a review of any final decision of the Board with reference to a claim for benefits by filing a petition for review within ninety days after the mailing of notice of such decision to the claimant, or within such further time as the Board may allow, in the United States district court for the judicial district in which the claimant resides, or in the United States District Court for the District of Columbia. A copy of such petition, together with initial process, shall forthwith

be served upon the Board or any officer designated by it for such purpose. Service may be made upon the Board by registered mail addressed to the Chairman. Within fifteen days after receipt of service, or within such additional time as the court may allow, the Board shall certify and file with the court in which such petition has been filed a transcript of the record upon which the findings and decision complained of are based. Upon such filing the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall give precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence. It shall have power to enter upon the pleadings and transcript of the record a decree affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for rehearing. The findings of the Board as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive. No additional evidence shall be received by the court, but the court may order additional evidence to be taken before the Board, and the Board may, after hearing such additional evidence, modify its findings of fact and conclusions and file such additional or modified findings and conclusions with the court, and the Board shall file with the court a transcript of the additional record. The judgment and decree of the court shall be final, subject to review as in equity cases.

An applicant for review of a final decision of the Board concerning a claim for benefits shall not be liable for costs, including costs of service, or costs of printing records, except that costs may be assessed by the court against such applicant if the court determines that the proceedings for such review have been instituted or continued without reasonable ground.

(g) Findings of fact and conclusions of law of the Board in the determination of any claim for benefits or refund and the determination of the Board that the unexpended funds in the account are available for the payment of any claim for benefits or refund under this Act, shall be, except as provided in subsection (f) of this section, binding and conclusive for all purposes and upon all persons, including the Comptroller General and any other administrative or accounting officer, employee, or agent of the United States, and shall not be subject to review in any manner other than that set forth in subsection (f) of this section.

(h) Except as may be otherwise prescribed by regulations of the Board, benefits payable with respect to any period prior to the date of a final decision of the Board with respect to a claim therefor, shall be paid only after such final decision.

(i) No claimant claiming benefits shall be charged fees of any kind by the Board, its employees or representatives, with respect to such claim. Any such claimant may be represented by counsel or other duly authorized agent, in any proceeding before the Board or its representatives or a court, but no such counsel or agent shall either charge or receive for such services more than an amount approved by the Board or by the court before whom the proceedings of the Board are reviewed. Any person who violates any provision of this subsection shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year.

CONCLUSIVENESS OF RETURNS OF COMPENSATION AND OF FAILURE TO MAKE RETURNS OF COMPENSATION

SEC. 6. Employers shall file with the Board, in such manner and form and at such times as the Board by regulations may prescribe, returns under oath of monthly compensation of employees, and, if

Claimant not liable for costs; exception.

Findings of fact and conclusions of law of Board, etc., conclusive; exception.

Benefits payable before Board's final decision.

Restriction on charging of fees by Board.

Representation by counsel; limitation on fees.

Penalty for violation.

Conclusiveness of returns of compensation and of failure to make returns of compensation.

the Board shall so require, shall furnish employees with statements of their monthly compensation as reported to the Board. Any such return shall be conclusive as to the amount of compensation earned by an employee during each month covered by the return, and the fact that no return was made of the compensation claimed to be earned by an employee during a particular calendar month shall be taken as conclusive that no compensation was earned by such employee during that month, unless the error in the amount of compensation returned in the one case, or the failure to make return of the compensation in the other case, is called to the attention of the Board within four years after the last date on which return of the compensation was required to be made.

FREE TRANSPORTATION

Free transportation.

SEC. 7. It shall not be unlawful for carriers to furnish free transportation to employees qualified for benefits or serving waiting periods under this Act.

Contributions.

Payment by employer with respect to employees in his service.

Proviso.
Compensation payable by more than one employer.

Liability for payment.

Employee representative, contribution.

Determination of compensation and contribution.

Fractions of cent.

Adjustments.

CONTRIBUTIONS

SEC. 8. (a) Every employer shall pay a contribution, with respect to having employees in his service, equal to 3 per centum of so much of the compensation as is not in excess of \$300 for any calendar month payable by him to any employee with respect to employment after June 30, 1939: *Provided, however,* That if compensation is payable to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than \$300 of the aggregate compensation payable to said employee by all said employers with respect to such calendar month, and each such employer shall be liable for that proportion of the contribution with respect to such compensation which the amount payable by him to the employee with respect to such calendar month bears to the aggregate compensation payable to such employee by all employers with respect to such calendar month.

(b) Each employee representative shall pay, with respect to his income, a contribution equal to 3 per centum of so much of the compensation of such employee representative as is not in excess of \$300 for any calendar month, paid to him for services performed as an employee representative after June 30, 1939. The compensation of an employee representative and the contribution with respect thereto shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.

(c) In the payment of any contribution under this Act, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(d) If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation, then, under regulations prescribed under this Act by the Board, proper adjustments with respect to the contribution shall be made, without interest, in connection with subsequent contribution payments made under this Act by the same employer or employee representative.

(e) If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation and the overpayment or underpayment of the contribution cannot be adjusted under subsection (d) of this section, the amount of the overpayment shall be refunded from the account, or the amount of the underpayment shall be collected, in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations of the Board.

(f) The contributions required by this Act shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, 90 per centum thereof to the credit of the account and 10 per centum thereof to the credit of the fund.

Division of deposits.

(g) The contributions required by this Act shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this Act as may be prescribed by regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ. If a contribution required by this Act is not paid when due, there shall be added to the amount payable (except in the case of adjustments made in accordance with the provisions of this Act) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account.

Quarterly collections of contributions.

Interest charge on arrearage; exception.

(h) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the contributions required by this Act: *Provided, however,* That all authority and functions conferred by or pursuant to such provisions upon any officers or employees of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to the contributions required by this Act, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefor.

Provisions of law applicable.
44 Stat. 93, 99; 48 Stat. 768.Proviso.
Authority and functions vested in Board; exception.

PENALTIES

SEC. 9. (a) Any officer or agent of an employer, or any employee representative, or any employee acting in his own behalf, or any person whether or not of the character hereinbefore defined, who shall willfully fail or refuse to make any report or furnish any information required by the Board in the administration of this Act, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or report when a statement or report is required to be made for the purposes of this Act, or who shall knowingly make or aid in making or cause to be made any false or fraudulent statement or claim for the purpose of causing benefits or other payment to be made or not to be made under this Act, shall be punished by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

Penalties.

Failure to make report or furnish information.

(b) Any agreement by an employee to pay all or any portion of the contribution required of his employer under this Act shall be void, and it shall be unlawful for any employer, or officer or agent of an employer, to make, require, or permit any employee to bear all or any portion of such contribution. Any employer, or officer or agent of an employer, who violates any provision of this subsection shall be punished for each such violation by a fine of not more than \$10,000 or by imprisonment not exceeding one year, or both.

False, etc., statement.

(c) Any person who violates any provision of this Act, the punishment for which is not otherwise provided, shall be punished for each such violation by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

Payment by employee of any portion of contribution required of employer.

Violation of any provision of Act not otherwise provided for.

(d) All fines and penalties imposed by a court pursuant to this Act shall be paid to the court and be remitted from time to time by order of the judge to the Treasury of the United States to be credited to the account.

Crediting fines, etc., imposed by court to account.

Railroad unemployment insurance account.
Maintenance.

49 Stat. 640.
42 U. S. C., Supp.
III, § 1104.
Composition.
Ante, p. 1102.

Post, pp. 1110, 1112.

49 Stat. 641.
42 U. S. C., Supp.
III, § 1104 (e).

Post, p. 1105.

Ante, p. 1097; *post*,
p. 1108.
Availability for expenditure.

Restriction on use.
Certification of names of beneficiaries.

Payments prior to audit.

Proviso.
Distribution through employment offices, etc.

Statement of status and operation in annual report to Congress.

Advances for paying benefits; repayment.

49 Stat. 640.
42 U. S. C., Supp.
III, § 1104 (a).

Unemployment trust fund; establishment.
Receipt of deposited funds.

Depositories.

RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 10. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance account. This account shall consist of (i) 90 per centum of all contributions collected pursuant to section 8 of this Act, together with all interest thereon collected pursuant to section 8 of this Act; (ii) all amounts transferred or paid into the account pursuant to section 13 or section 14 of this Act; (iii) all additional amounts appropriated to the account in accordance with any provision of this Act or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 904 (e) of the Social Security Act; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 11 of this Act; (vii) all fines or penalties collected pursuant to the provisions of this Act; and (viii) all amounts credited thereto pursuant to section 2 (g) or section 12 (g) of this Act. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are hereby permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this Act, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund.

(b) All moneys in the account shall be used solely for the payment of the benefits and refunds provided for by this Act. The Board shall, from time to time, certify to the Secretary of the Treasury the name and address of each person or company entitled to receive benefits or a refund payment under this Act, the amount of such payment, and the time at which it shall be made. Prior to audit or settlement by the General Accounting Office, the Secretary of the Treasury, through the Division of Disbursements of the Treasury Department, shall make payments from the account directly to such person or company of the amount of benefits or refund so certified by the Board: *Provided, however*, That if the Board shall so request, the Secretary of the Treasury, through the Division of Disbursements of the Treasury Department, shall transmit benefits payments to the Board for distribution by it through employment offices or in such other manner as the Board deems proper.

(c) The Board shall include in its annual report to Congress a statement with respect to the status and operation of the account.

(d) The Secretary of the Treasury is hereby directed to advance to the credit of the account such sums, but not more than \$25,000,000, as the Board requests for the purpose of paying benefits. Such sums shall be repaid from the account on January 1, 1941, or at such earlier time as the Board may, by agreement with the Secretary of the Treasury, determine.

(e) Section 904 (a) of the Social Security Act is hereby amended to read as follows:

"There is hereby established in the Treasury of the United States a trust fund to be known as the 'unemployment trust fund', hereinafter in this title called the 'fund'. The Secretary of the Treasury is authorized and directed to receive and hold in the fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account. Such deposit may be made directly with the Secretary of the Treasury or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose."

(f) Section 904 (e) of the Social Security Act is hereby amended to read as follows:

"The fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and the railroad unemployment insurance account and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the fund for the quarter ending on such date."

(g) Section 904 (f) of the Social Security Act is hereby amended by adding thereto the following sentence: "The Secretary of the Treasury is authorized and directed to make such payments out of the fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment."

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (a) There is hereby established in the Treasury of the United States a fund to be known as the railroad unemployment insurance administration fund. This fund shall consist of (i) 10 per centum of all contributions collected pursuant to section 8 of this Act; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this Act. Such additional amounts are hereby authorized to be appropriated.

(b) In addition to the other moneys herein provided for expenses necessary or incidental to administering this Act, there is hereby appropriated to the fund such amount as the Secretary of the Treasury and the Board shall jointly estimate to have been collected or to be collectible with respect to the calendar years 1936, 1937, 1938, and 1939, from employers subject to this Act, under title IX of the Social Security Act, less such amount as the Secretary of the Treasury and the Board shall jointly estimate will be appropriated or has been appropriated to States or Territories pursuant to the Act of Congress approved August 24, 1937 (Public, Numbered 353, Seventy-fifth Congress), as proceeds of taxes paid by employers pursuant to title IX of the Social Security Act.

Until the amount appropriated by this subsection is credited to the fund, the Secretary of the Treasury is hereby directed to advance to the credit of the fund such sums, but not more than \$2,000,000, as the Board requests for the purpose of financing the costs of administering this Act, including personal services in the District of ¹ such time after the amount appropriated by this subsection is credited to the fund as the Board by agreement with the Secretary of the Treasury may determine, but not later than January 1, 1940.

(c) Notwithstanding any other provision of law, all moneys at any time credited to the fund are hereby permanently appropriated to the Board to be continuously available to the Board without further appropriation for any expenses necessary or incidental to administering this Act. Such advance shall be repaid from the fund at ¹ Columbia and elsewhere; travel expenses, including expenses of attendance at meetings when authorized by the Board; actual transportation expenses and not to exceed \$10 per diem to cover subsistence and other expenses while in attendance at and en route to and from the place to which he is invited, to any person other than an employee of the Federal Government who may, from time to time, be invited

49 Stat. 641.
42 U. S. C., Supp.
III, § 1104 (e).
Investment as a
single fund; account-
ing.

Payments.

Railroad unemploy-
ment insurance ad-
ministration fund.
Establishment.

Composition.
Ante, p. 1102.

Additional sums ap-
propriated for ex-
penses.

49 Stat. 639.
42 U. S. C., Supp.
III, § 1101.
Deduction of approp-
riations to States or
Territories.

50 Stat. 754.

Advances to credit
of fund.

Availability of
moneys credited to
fund.

Travel and misce-
lanous expenses.

¹ So in original.

Contract, etc., services.

R. S. § 3709.
41 U. S. C. § 5.

Vehicles.

Printing and binding.

Newspapers, etc.

R. S. § 192.
5 U. S. C. § 102.

Civil service examinations.

Proviso.
Minor purchases.
R. S. § 3709.
41 U. S. C. § 5.

Determination of accounts.

50 Stat. 307; 49 Stat. 967.
45 U. S. C., Supp. III, ch. 9.

Transfer to account of excess credited to fund.

to the city of Washington or elsewhere for conference or advisory purposes in furthering the work of the Board; when found by the Board to be in the interest of the Government, not exceeding 3 per centum, in any fiscal year, of the amounts credited during such year to the fund, for engaging persons or organizations, by contract or otherwise, for any special technical or professional services, determined necessary by the Board, including but not restricted to accounting, actuarial, statistical, and reporting services, without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5) and the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; services; advertising, postage, telephone, telegraph, teletype, and other communication services and tolls; supplies; reproducing, photographing, and all other equipment, office appliances, and labor-saving devices, including devices for internal communication and conveyance; purchase and exchange, operation, maintenance and repair of motor-propelled passenger-carrying vehicles to be used only for official purposes in the District of Columbia and in the field; printing and binding; purchase and exchange of law books, books of reference, and directories; periodicals, newspapers and press clippings, in such amounts as the Board deems necessary, without regard to the provisions of section 192 of the Revised Statutes; manuscripts and special reports; membership fees or dues in organizations which issue publications to members only, or to members at a lower price than to others, payment for which may be made in advance; rentals, including garages, in the District of Columbia or elsewhere; alterations and repairs; if found by the Board to be necessary to expedite the certification to the Board by the Civil Service Commission of persons eligible to be employed by the Board, and to the extent that the Board finds such expedition necessary, meeting the expenses of the Civil Service Commission in holding examinations for testing the fitness of applicants for admission to the classified service for employment by the Board pursuant to the second paragraph of section 12 (1) of this Act, but not to exceed the additional expenses found by the Board to have been incurred by reason of the holding of such examinations; and miscellaneous items, including those for public instruction and information deemed necessary by the Board: *Provided*, That section 3709 of Revised Statutes (U. S. C., title 41, sec. 5) shall not be construed to apply to any purchase or procurement of supplies or services by the Board from moneys in the fund when the aggregate amount involved does not exceed \$300. Determinations of the Board whether the fund or an appropriation for the administration of the Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1935 is properly chargeable with the authorized expenses, or parts thereof, incurred in the administration of such Acts, or of this Act, shall be binding and conclusive for all purposes and upon all persons, including the Comptroller General and any other administrative or accounting officer, employee, or agent of the United States, and shall not be subject to review in any manner.

(d) No part of the fund shall lapse at any time, or be carried to the surplus fund or any other fund, except that at the expiration of the fiscal year 1946, and of each fiscal year thereafter, there shall be transferred from the fund and credited to the account such part as the Board deems proper of the excess, if any, of the amount credited to the fund during the preceding seven fiscal years pursuant to section 8 (f) of this Act over the total amount expended by the Board during the same period for the purpose of administering this Act.

DUTIES AND POWERS OF THE BOARD

SEC. 12. (a) 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 Act, 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 affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and production of evidence may be required from any place in the United States or any Territory or possession thereof at any designated place of hearing. All subpenas may be served and returned by anyone authorized by the Board in the same manner as is now provided by law for the service and return by United States marshals of subpenas in suits in equity. Such service may also be made by registered mail and in such case the return post-office receipt shall be proof of service. Witnesses summoned in accordance with this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

Duties and powers of Board.

Issuance of subpenas.

Oaths, etc.

Attendance of witnesses.

Witness fees and mileage.

Action in case of contumacy, etc.

Service of court orders.

Self-incrimination no excuse from testifying, etc.

Immunity from prosecution, etc.

Inviolability of information obtained.

(b) In case of contumacy by, or refusal to obey a subpena 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 District Court of the United States for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, 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 District Court of the United States for the District of Columbia in such proceedings may run and be served anywhere in the United States.

(c) No person shall be excused from attending or testifying in obedience to a subpena issued under this Act or from complying with any subpena duces tecum issued under this Act, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, but such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(d) Information obtained by the Board in connection with the administration of this Act shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity:

Proviso.
Exchange of information with governmental agencies.

Certification of claims for benefits and refunds.

Cooperation with State, etc., agencies with respect to investigations, etc.

Compensation.

Agreements concerning administration, etc.

Proviso.
Finding by Board.

Determination of qualification and amount of benefit due employee.

Ante, pp. 1096, 1097.

Eligibility under State law.

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 Act; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; and (iii) any claimant of benefits under this Act shall, upon his request, be supplied with information from the Board's records pertaining to his claim.

(e) The Board shall provide for the certification of claims for benefits and refunds and may arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. The Board shall designate and authorize one or more of its employees to sign vouchers for the payment of benefits and refunds under this Act. Each such employee shall give bond, in form and amount fixed by the Board, conditioned upon the faithful performance of his duties. The premiums due on such bonds shall be paid from the fund and deemed to be a part of the expenses of administering this Act.

(f) 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 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 Act, and may compensate any such agency for services or facilities supplied to the Board in connection with the administration of this Act. The Board may enter also into agreements with any such agency, pursuant to which any unemployment benefits provided for by this Act or any other unemployment-compensation law, may be paid through a single agency to persons who have, during the period on the basis of which eligibility for and duration of benefits is determined under the law administered by such agency or under this Act, or both, performed services covered by one or more of such laws, or performed services which constitute employment as defined in this Act: *Provided*, That the Board finds that any such agreement is fair and reasonable as to all affected interests.

(g) In determining whether an employee has qualified for benefits in accordance with section 3 (a) of this Act, and in determining the amount of benefits to be paid to such employee in accordance with sections 2 (a) and 2 (c) of this Act, 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-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 benefits under an unemployment compensation law of such State, and in determining the amount of unemployment benefits to be paid to such employee pursuant to such unemployment compensation law, considers as services for hire (and remuneration therefor) included within the provisions of such unemployment-compensation law, employment (and compensation therefor) after June 30, 1939, the Board is authorized to reimburse such State such portion of such unemployment 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 Act.

(h) The Board may 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, for securing the performance of services or the use of facilities in connection with the administration of this Act, 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 the Act of Congress approved March 3, 1917 (39 Stat. 1106, ch. 163, sec. 1).

Agreements with employers, etc., in connection with administration.

44 Stat. 577.

45 U. S. C. ch. 8; Supp. III, ch. 8.

Compensation; restriction.

(i) The Board may establish, maintain, and operate free employment offices, and may designate as free employment offices facilities maintained by (i) a railway labor organization which is duly authorized and designated to represent employees in accordance with the Railway Labor Act, 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 group of such employers and labor organizations, or (vi) a State, Territorial, foreign, or the Federal Government. The Board may also enter into agreements or arrangements with one or 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.

Receiving salary from source other than United States, provision waived.

39 Stat. 1106.

5 U. S. C. § 66.

Free employment offices.

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.

Procedure for registration of unemployed employees at employment offices.

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.

Group registration and reporting.

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.

Primary purpose of employment facility.

(j) 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 Act 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.

Advisory councils; composition.

(k) 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 unem-

Compensation restriction; expenses.

Vocational training, etc.

Powers and duties of Board.

50 Stat. 315.
45 U. S. C., Supp.
III, § 228(b)4.
Employees.
50 Stat. 319.
45 U. S. C., Supp.
III, §§ 215-228.
Civil service status.

Employment of personnel.

5 U. S. C. §§ 631-652;
661-674; Supp. III,
§§ 673, 673c.
Director of Unemployment Insurance, salary.

Provisos.
Preference among applicants.

Certification for appointment, basis of.

Delegation of powers.

Exclusiveness of provisions; transfers from State unemployment compensation accounts, etc.

Employment; term extended.
49 Stat. 643.
42 U. S. C., Supp.
III, § 1107.

Exclusiveness of provisions.

Ante, p. 1095.

Legislative finding.

Ante, p. 1108.

49 Stat. 642.
42 U. S. C., Supp.
III, § 1106.

ployed employees; and to these ends to carry on and publish the results of investigations and research studies.

(1) 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 Act, and in connection therewith shall have such of the powers, duties, and remedies provided in section 10 (b) (4) of the Railroad Retirement Act of 1937, with respect to the administration of said Act, as are not inconsistent with the express provisions of this Act. A person in the employ 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 Civil Service Commission, he shall pass such noncompetitive tests of fitness as the Civil Service Commission 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 Act. Such persons shall be employed and their remuneration prescribed in accordance with the civil-service laws and the Classification Act of 1923, except that the Board may fix the salary of a Director of Unemployment Insurance at \$10,000 per annum: *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 Civil Service Commission 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.

(m) 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 Act, excluding only the power to prescribe rules and regulations.

EXCLUSIVENESS OF PROVISIONS; TRANSFERS FROM STATE UNEMPLOYMENT COMPENSATION ACCOUNTS TO RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 13. (a) Effective July 1, 1939, section 907 (c) of the Social Security Act is hereby amended by substituting a semicolon for the period at the end thereof, and by adding: "(8) service performed in the employ of an employer as defined in the Railroad Unemployment Insurance Act and service performed as an employee representative as defined in said Act."

(b) By enactment of this Act the Congress makes exclusive provision for the payment of unemployment benefits for unemployment occurring after June 30, 1939, based upon employment (as defined in this Act). No employee shall have or assert any right to unemployment benefits under an unemployment compensation law of any State with respect to unemployment occurring after June 30, 1939, based upon employment (as defined in this Act). The Congress finds and declares that by virtue of the enactment of this Act, the application of State unemployment compensation laws after June 30, 1939, to such employment, except pursuant to section 12 (g) of this Act, would constitute an undue burden upon, and an undue interference with the effective regulation of, interstate commerce. In furtherance of such determination, after June 30, 1939, the term "person" as used in section 906 of the Social Security Act shall not be construed to include any employer (as defined in this Act) or any

person in its employ: *Provided*, That no provision of this Act shall be construed to affect the payment of unemployment benefits with respect to any period prior to July 1, 1939, under an unemployment compensation law of any State based upon employment performed prior to July 1, 1939, and prior to such date employment as defined in this Act shall not constitute "Service with respect to which unemployment compensation is payable under an [or "service under any"] unemployment compensation system [or "plan"] established by an Act of Congress" [or "a law of the United States"] or "employment in interstate commerce, of an individual who is covered by an unemployment compensation system established directly by an Act of Congress," or any term of similar import, used in any unemployment compensation law of any State.

Proviso.
Payments under
State laws for any
period prior to July 1,
1939.

(c) The Social Security Board is hereby 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.

Determination of
"preliminary amount"
for each State.

(d) The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 302 (a) of the Social Security Act 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 $2\frac{1}{2}$ 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 Act, and (ii) July 1, 1939, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund to the railroad unemployment-compensation 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.

Withholdings from
certification until
"preliminary amount"
equaled, etc.
42 U. S. C., Supp.
III, § 502.

The Social Security Board shall withhold from certification to the Secretary of the Treasury for payment the amounts determined by it pursuant to section 302 (a) of the Social Security Act to be necessary for the proper administration of each State's unemployment compensation law, until an amount equal to its "liquidating amount" plus interest from January 1, 1940, at $2\frac{1}{2}$ 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 certifi-

Proviso.
If State authorizes
transfer, certification
not to be withheld.

Withholdings from
certification until "liq.
uidating amount"
equaled, etc.

Proviso.
If State authorizes
transfer, certification
not to be withheld.

Withholdings from
certification to begin
on inability of State to
meet condition.

Provisions not
deemed breaches of
designated conditions.

49 Stat. 626, 640.
42 U. S. C., Supp.
III, §§ 503, 1103.

Payments to rail-
road unemployment
insurance account.

49 Stat. 626.
42 U. S. C., Supp.
III, § 501.

49 Stat. 627.

Withholding of
grants to noncooperat-
ing States.

District of Colum-
bia Unemployment
Compensation Act.
“Employment,”
definition extended.
49 Stat. 946.

cation 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 Act, and (ii) January 1, 1940, authorize and direct the Secretary of the Treasury to transfer from its account in the unemployment trust fund to the railroad unemployment compensation account in the unemployment trust fund an amount equal to its “liquidating amount”, no amount shall be withheld from certification for payment to such State pursuant to this paragraph.

The withholdings from certification directed in each of the foregoing paragraphs of this subsection shall begin with respect to each State when the Social Security Board finds that such State is unable to avail itself of the condition set forth in the proviso contained in such paragraph.

(e) The transfers described in the provisos contained in the several paragraphs of subsection (d) of this section shall not be deemed to constitute a breach of the conditions set forth in sections 303 (a) (5) and 903 (a) (4) of the Social Security Act; nor shall the withdrawal by a State from its account in the unemployment trust fund of amounts, but not to exceed the total amount the Social Security Board shall have withheld from certification with respect to such State pursuant to subsection (d) of this section, be deemed to constitute a breach of the conditions set forth in sections 303 (a) (5) and 903 (a) (4) of the Social Security Act, provided the moneys so withdrawn are expended solely for expenses which the Social Security Board determines to be necessary for the proper administration of such State's unemployment compensation law.

(f) The Social Security Board is authorized and directed to certify to the Secretary of the Treasury for payment, and the Secretary shall pay, into the railroad unemployment insurance account, such amounts as the Social Security Board withholds from certification pursuant to subsection (d) of this section and the appropriations authorized in section 301 of the Social Security Act shall be available for payments authorized by this subsection. The Secretary shall transfer from the account of a State in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund such amounts as the State authorizes and directs him so to transfer pursuant to subsection (d) of this section.

(g) Section 303 of the Social Security Act is hereby amended by adding thereto the following additional subsection:

“(c) The Board shall make no certification for payment to any State if it finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

“(1) That such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes; or

“(2) That such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any employment insurance law.”

DISTRICT OF COLUMBIA UNEMPLOYMENT COMPENSATION ACT

SEC. 14. (a) Effective July 1, 1939, section 1 (b) of the District of Columbia Unemployment Insurance¹ Act is amended by substituting a semicolon for the period at the end thereof and by adding: “(8) service performed in the employ of an employer as defined in the

¹ So in original.

Railroad Unemployment Insurance Act and service performed as an employee representative as defined in said Act." This amendment shall not be construed to affect the payment of unemployment benefits at any time with respect to any period prior to July 1, 1939, based upon employment performed prior to July 1, 1939.

(b) The Secretary of the Treasury is authorized and directed to transfer from the account of the District of Columbia in the unemployment trust fund to the railroad unemployment insurance account in the unemployment trust fund, an amount equal to the "preliminary amount" and an amount equal to the "liquidating amount", whenever such amounts, respectively, have been determined, with respect to the District of Columbia, pursuant to section 13 of this Act.

Transfer of designated amounts in accounts of unemployment trust fund.

Ante, p. 1110.

TRANSITIONAL PROVISIONS

SEC. 15. (a) Notwithstanding the provisions of section 1 (n) of this Act, until July 1, 1940, the term "benefit year" as defined in section 1 (n) of this Act means, with respect to any individual, the twelve-month period which begins with either the first day with respect to which benefits are first payable to him under this Act or the first day after July 1, 1938, but before July 1, 1939, with respect to which unemployment benefits are received by him under an unemployment compensation law of any State, whichever is the earlier.

(b) For the purposes of section 2 (c) of this Act, all unemployment benefits paid to an employee pursuant to an unemployment compensation law of any State, with respect to any period prior to July 1, 1939, shall be considered as though they were benefits paid under this Act.

(c) Section 3 (b) of this Act shall not be applicable to an otherwise qualified employee with respect to whom there is, pursuant to subsection (a) of this section, current a benefit year beginning before July 1, 1939.

(d) Any employee for whom there is, pursuant to subsection (a) of this section, current a benefit year beginning before July 1, 1939, and who, solely by reason of the enactment of this Act, becomes ineligible to continue to receive benefits under the unemployment compensation law of any State with respect to unemployment occurring after July 1, 1939, shall, for the purposes of section 3 (a) of this Act, be deemed to have earned compensation with respect to employment in his base year of not less than \$150: *Provided*, That, notwithstanding the provisions of section 2 (c) of this Act, the maximum benefits payable to such employee for unemployment within such benefit year shall not exceed the maximum amount to which he would otherwise have been entitled under the unemployment compensation law of such State.

Certain benefits paid under State law considered as though paid under this Act.

Ante, p. 1097.

Qualified employee to whom there is current a benefit year beginning prior to July 1, 1939.

Ante, p. 1097.

Employee ineligible, solely by this Act, for State benefits deemed to have sufficient earnings to qualify.

Ante, p. 1097.

Proviso.
Maximum benefits.

Ante, p. 1097.

SEPARABILITY

SEC. 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

Separability provision.

Short title.

SEC. 17. This Act may be cited as the "Railroad Unemployment Insurance Act".

Approved, June 25, 1938.