AMENDMENTS TO THE RAILROAD UNEMPLOYMENT INSURANCE ACT

SOLOMON S. KUZNETS *

The fundamental interrelationship between the Federal-State systems of unemployment compensation and the system of unemployment insurance for railroad workers makes the following analysis of the recent amendments to the Railroad Unemployment Insurance Act of special interest to readers of the Bulletin. This article discusses the background for the proposals and the need for changes in the benefit formula revealed during the first year of operation of the act.

DURING THE first half year of operation of the Railroad Unemployment Insurance Act, which went into effect on July 1, 1939, it became apparent that benefits paid under the act were considerably lower than those under most State unemployment compensation laws and that the contributions called for by the act could support a more adequate benefit scale. Accordingly, early in 1940 organized labor, represented by the Railway Labor Executives' Association, initiated negotiations with the Association of American Railroads with a view to arriving at a series of amendments which could be presented to Congress as a bill agreed to by both management and labor. At the same time the Railroad Retirement Board was requested to make certain studies in order to provide technical assistance to the two parties directly concerned in drafting the legislation.

No agreement was reached in the negotiations between management and labor. For this reason two separate bills to amend the Railroad Unemployment Insurance Act were introduced in the Senate. The bill introduced by Senator Wagner (S. 3920) [1] incorporated the changes proposed by the Railroad Labor Executives' Association; this bill was later reviewed and approved, with minor emendations, by the Railroad Retirement Board. The bill sponsored by Senator Gurney incorporated changes supported by the Association of American Railroads (S. 3925). The provisions of S. 3920 contained important changes in the rate, duration, and total amount of benefits, in the waiting period, and in a number of administrative features of the original act. The amendments proposed in S. 3925 were concerned mainly with benefit provisions and with a sliding scale of contributions depending on the amount of assets in the railroad unemployment insurance account, from which benefits are paid.

Hearings on the two bills were held before a subcommittee of the Senate Committee on Interstate Commerce on May 13 and 14. Although an effort was made to arrive at an agreement in the Committee, two separate reports were submitted to the Senate on June 3. The majority report approved with a few technical changes the bill introduced by Mr. Wagner. The dissenting report, signed by five members, recommended the passage of Mr. Gurney's bill with some changes, the most important of which was the substitution of the scale of daily benefit amounts proposed in S. 3920.

Because of the pressure of legislation on national defense, the Senate did not consider the amendatory bills until July 29. On that date S. 3920 was passed as reported out of committee, with the addition of a section providing that most of the changes go into effect on October 1, 1940, instead of July 1 as originally proposed. This section also directed that certain adjustments be made in connection with benefits paid and waiting periods served during the period July 1–September 30.

In the House, bills to amend the Railroad Unemployment Insurance Act were introduced by Representative Crosser on May 8 (H. R. 9706), by Representative Reece on June 13 (H. R. 10082), and by Representative Kennedy on June 14 (H. R. 10085). The Crosser and Reece bills were substantially the same as the Wagner and Gurney bills. The Kennedy bill proposed an equal division of contributions between employers and employees, whereby the employer contribution rate would be reduced from 3 to 1½ percent and an equal contribution would be payable by employees. Hearings on the three bills were held before the Committee on Interstate and Foreign Commerce

*Railroad Retirement Board, Bureau of Research and Information.

[1] On May 2 Mr. Wagner introduced S. 3906 for which S. 3920 was later substituted. The only difference between the 2 bills was in the daily benefit amounts for the various classes of beneficiaries.

on June 14 and 17 and July 8 and 9, but no report was submitted. On July 30, S. 3920 as passed by the Senate was referred to the Committee, which submitted a favorable report on September 13. The Committee recommended a number of changes, however, of which the most important eliminated the carry-over of unused benefit rights from one benefit year to the next. The bill was subsequently recalled by the Committee and after additional changes were made was passed by the House without dissent on September 30. The House version was adopted by the Senate on October 2 and signed by the President on October 10.

The amendatory act contains 27 sections, most of which went into effect on November 1. Many of them attempt to correct weaknesses and difficulties in administrative processes which were revealed during the first year of operation. The vital changes, however, are concerned with the benefit formula and provide a substantial increase in benefit levels. The discussion which immediately follows deals with the background of the proposals and analyzes the more important changes.

Inadequacy of Benefits Under the Original Act

The act originally provided benefits for each day of unemployment in excess of 7 in a period of 15 consecutive days (a half month) up to a maximum of 80 daily benefit amounts in a benefit year. The daily benefit rates ranged from $1.75, for employees with base-year compensation of $150–199, to $3.00 when base-year compensation was $1,300 and over. Within this range the daily benefit amount was raised by 25 cents for each increase of $275 in the base-year compensation. Benefits were payable after a waiting period of one half month with at least 8 days of unemployment, served within 6 months of the beginning of the benefit year.[2]

That the benefit formula of the original act would result in rather small benefits was evident even before actual payments began. True, the potential duration of benefits in a benefit year, which extended over a period of 5 months or slightly over 21 weeks for all eligible employees, compared favorably with the provisions of State unemployment compensation laws, in which the maximum limit in most cases is 16 weeks. The waiting-period provision could also be considered satisfactory, since the waiting time appeared to range from slightly more than 1 week to slightly more than 2 weeks. Here, however, appearances were somewhat misleading. In practice the unemployed worker had to wait for his first benefit check for at least 1 month after the beginning of his unemployment, because he was not entitled to benefits for the first half month (the waiting period) and had to complete another half month before a valid benefit claim could be adjudicated. He was therefore in a position similar to that of the claimant in a State with a waiting period of 3 weeks; this was in effect a longer waiting period than the 2 weeks required in a majority of the States.

It was in relation to the benefit provided for a period or spell of unemployment that the inadequacy of the benefit formula was striking. The benefit for a period of 15 consecutive days of unemployment ranged from $14 to $24. The equivalent weekly benefit rate for total unemployment may be calculated either as seven-fifteenths of the benefit for 15 days or as one-half of such benefit, the latter on the assumption that the fifteenth day is a Sunday or other day on which the claimant does not normally work. Even on the basis of the larger fraction, the equivalent weekly benefit rate under the unamended act works out to a minimum of $7 and a maximum of $12, with 4 intermediate rates spaced at $1 intervals. Although the minimum rate appears to be high, being equaled or exceeded in only a few States, the maximum is lower than in any State system.

The comparison, however, is misleading because it involves an application of standards developed for manufacturing and other industries to railroads, which have a markedly different wage-rate structure. In an industry in which the lowest paid and least skilled groups average $18–22 for a full week, where skilled labor in the shops and in the train-and-engine service is paid a minimum of $40 while semiskilled helpers and apprentices average $27, and where clerical employees receive a weekly wage approximating $35, the adequacy of the original benefit scales is obviously questionable. Even for the lower wage groups a substantial amount of employment in the base year was necessary to qualify them for benefits which

[2] The statement about the waiting period applies to the act in effect in July 1939–October 1940; for changes made in the waiting-period requirements in June 1939, see p. 14.

would approximate one-half the full-time wage. Since the highest weekly benefit was $12, the skilled and white-collar groups could not under any circumstances receive a benefit approaching one-half their full-time wage.

When a claimant was unemployed for less than 15 days, the inadequacy of benefits was even greater. Thus, a claimant with 7 days of unemployment received no benefits although his unemployment extended over virtually half the 15-day period, and a claimant with 10 days of unemployment received only 27½ percent of the maximum benefit while his unemployment equaled nearly 67 percent of the maximum possible unemployment for the period. This relationship between unemployment and benefits is implicit in the formula, which provided for benefits only for days of unemployment in excess of 7, on the principle that in a 15-day period earnings from employment should be allowed to offset in whole or in part the wage loss from unemployment. In this respect the provisions of the act were similar to the treatment of so-called partial unemployment in the State systems, except that in most States the period during which earnings are applied as an offset against the wage loss is limited to a week. The length of this period is, of course, the major factor governing the liberality of compensation for partial unemployment as compared with compensation for total unemployment: the longer the period, the less generous are the "partial" benefits. Under the benefit formula of the railroad act this is most obvious in the case of 7 consecutive days of unemployment, for which the claimant receives no benefits; under many State laws an eligible claimant would in this case be entitled to a week's benefit, or half the benefit drawn for 2 weeks (or 15 days) of consecutive unemployment.

These weaknesses of the benefit provisions—the low level of weekly or semimonthly benefits and an unduly long waiting period—were apparent before benefit operations under the act began in July 1939. In fact a minor change in the waiting period was made in the amendments approved in June 1939; for the original requirement of 1 half month with 15 consecutive days of unemployment or of 2 half months with at least 8 but less than 15 days of unemployment a simpler provision was substituted which required only 1 half month with at least 8 days of unemployment. No major changes, however, were considered desirable at that time because there appeared to be no reason to qualify the theory underlying the original act. This theory assumed that, because of the widespread acceptance of the seniority principle, unemployment among railroad workers is concentrated more than in any other industry in the low-wage groups and that unemployment when it occurs is in the main continuous over long periods. Accordingly stress was laid on extended duration and on providing a benefit scale which would conform to the standard of one-half of the full-time wage at least for the lower paid groups. Small differences in the waiting period were unimportant when the duration of unemployment was long. Moreover, it appeared impossible to finance larger benefits with a contribution rate of 3 percent, the norm established for the country by the Federal-State unemployment compensation system.

Benefits in the First Year of Operation

Claim and benefit-payment experience under the act quickly revealed some additional flaws in the benefit structure of the system. It became apparent in the first few months of operation that, regardless of any objective and long-run considerations, claimants were immediately and vitally concerned with the benefit amount payable to them for each half month. The fact that they received a benefit for a half month which was smaller than they had received under the State systems for a similar period appeared to them more important than the longer potential duration of benefits in the course of a year. Because of dissatisfaction with the benefit scale, the Board was early impelled to make a statistical study, based on actual cases, of the comparative benefit rights under the railroad and State systems. The results of this study, as modified by weights reflecting the first full year of experience, are summarized in table 1.

Benefits under the act compared with State benefits.—For the purposes of this study about 100 cases per State were selected at random from the group of applicants for benefit rights under the railroad system in the first month of operation. The sample included 43 jurisdictions in the continental United States. Six small jurisdictions[3] were omitted because no satisfactory sample could be obtained or because the State benefit

[3] Delaware District of Columbia, Nevada, Rhode Island, Vermont, and Wisconsin.

formula precluded calculations on the basis of data available in the files of the Board; these 6 jurisdictions account for less than 4 percent of the employees covered under the act.

For each case included in the sample, benefit rights for a long and continuous period of unemployment beginning July 1, 1939, were calculated both under the railroad act and under the unemployment compensation statute of the employee's State of residence, on the assumption that the wage credits—but not necessarily the base period—under the two laws were the same. The State laws used for this purpose were those enacted by March 1, 1940; no attention was paid to benefit provisions applying to a transitional period or to those reflecting an old benefit formula which was scheduled to be replaced by a new formula. The weekly benefit rate for total unemployment and the maximum amount of benefits for the benefit year under both systems were then compared for each case. In order to guard against any exaggeration of the weaknesses of the railroad act and for simplicity in calculation, the weekly benefit rate under the railroad act was assumed to equal one-half the benefit for a half month with 15 days of unemployment. Cases found to be ineligible under State statutes were eliminated from this comparison, because cases ineligible under the railroad act were not included at the outset in the universe from which the sample was drawn. The results of this comparison were compiled separately for each benefit class in each State; for the same groups the median weekly benefit rate and the maximum amount of benefits in the benefit year were also obtained. The summary results for each State were calculated by means of benefit-class weights based on the first full year of operation under the act. The summary results by benefit classes for the United States were calculated by means of State weights proportionate to the number of railroad employees in each State.

Because of differences between the benefit provisions of the railroad act and the State statutes, differences which relate not only to the methods of calculating the benefit rates and maximum amounts but also to the length and position of base periods with respect to the benefit years, there is no reason to expect that the comparison of

Table 1.—*Comparison of average weekly benefit rates and maximum benefits payable in a benefit year to railroad workers, under State unemployment compensation laws and under the Railroad Unemployment Insurance Act* [1]

Group or State	Weekly benefit rate			Maximum benefits in benefit year		
	Average under State law	Percent of cases in which State rate—		Average under State law	Percent of cases in which State maximum—	
		Exceeds RUIA rate	Equals RUIA rate		Exceeds RUIA maximum	Equals RUIA maximum
Total	$11.90	74	3	$163	33	5
Employees with RUIA base-year compensation of:						
$150-199	5.75	21	5	54	6	----
200-474	9.50	60	4	118	25	2
475-749	12.50	77	4	167	36	2
750-1,024	14.25	86	3	205	47	1
1,025-1,299	15.00	97	1	219	55	----
1,300 and over	15.25	100	----	241	27	80
States:						
Alabama	8.50	35	10	179	34	5
Arizona	11.25	71	----	156	32	----
Arkansas	9.25	32	20	143	32	----
California	15.00	100	----	256	88	9
Colorado	11.50	57	12	171	46	----
Connecticut	11.00	63	9	110	13	----
Florida	13.50	76	17	199	64	2
Georgia	11.25	56	13	175	55	----
Idaho	12.25	82	7	172	44	----
Illinois	14.00	90	3	166	35	----
Indiana	12.50	69	7	152	29	----
Iowa	12.50	70	----	178	59	----
Kansas	9.75	39	16	104	13	----
Kentucky	11.75	61	----	175	54	----
Louisiana	10.75	63	----	170	42	----
Maine	8.00	15	11	132	13	----
Maryland	10.25	52	13	145	29	----
Massachusetts	12.25	67	5	190	45	1
Michigan	14.75	90	2	205	66	2
Minnesota	11.50	60	15	174	51	1
Mississippi	10.75	49	3	146	34	----
Missouri	11.75	67	----	140	22	7
Montana	12.00	66	19	191	59	6
Nebraska	10.50	52	22	160	42	----
New Hampshire	12.00	67	21	117	14	----
New Jersey	11.00	57	9	121	18	----
New Mexico	9.25	39	15	145	26	1
New York	12.25	66	13	158	33	----
North Carolina	7.25	5	11	114	13	----
North Dakota	11.25	55	19	174	49	1
Ohio	13.00	72	13	208	77	----
Oklahoma	9.50	34	24	109	14	----
Oregon	12.75	82	8	195	15	----
Pennsylvania	14.25	83	----	178	45	----
South Carolina	9.50	35	18	150	36	2
South Dakota	8.25	22	2	114	13	----
Tennessee	9.75	43	20	158	43	1
Texas	8.75	30	8	119	15	----
Utah	11.00	64	6	144	22	----
Virginia	11.50	68	----	175	56	----
Washington	12.25	67	16	173	54	1
West Virginia	8.00	13	4	110	13	----
Wyoming	15.00	83	3	157	31	----

[1] Calculated from sample of 100 cases per State. For statement of methods used, see text, p. 15. In interpreting table the following facts for rights under original railroad act should be noted: Equivalent weekly benefit rate for the U. S. and for each State averages $9.25; for individual benefit classes it ranges from $7 to $12, with intermediate rates at $1 intervals. Maximum benefits in a benefit year for the U. S. and for each State amount on the average to $185; for individual benefit classes maximum ranges from $140 to $240, with 4 intermediate amounts spaced $20 apart.

benefit rights under the State and Federal laws would show that all or nearly all benefit rates or maximum benefit amounts under the State law are higher or lower or the same as under the railroad act. The results of the comparison can be stated only in terms of the proportion of cases in which the benefit rates or maximum benefits under one act are higher or lower than under the other. Greater liberality of benefits is indicated when the proportion of cases with higher weekly or maximum benefits exceeds one-half. Another method is to compare the averages under the two laws, to get a measure of the differences between the laws in terms of dollars and cents. The figures presented in table 1 permit comparison by both methods.

In relation to the weekly benefit rate, the figures in table 1 show that there are only 6 of the 43 States in which the State amount is clearly lower than that provided under the railroad act. In these States—Alabama, Maine, North Carolina, South Dakota, Texas, and West Virginia—the proportion of cases in which the State rate is greater than or equal to the equivalent weekly rate under the railroad act is definitely less than 50 percent. The average rate in these States is also below the average under the railroad act, which is $9.25. It is significant that these 6 States include all those in which the law provides for the determination of the weekly benefit on the basis of annual wages from covered employment, a formula similar to that used in the railroad act; the rates in Maine, North Carolina, South Dakota, and West Virginia are, however, much lower than under the act, because the weekly benefit is taken on the average at a much lower fraction of base-year wages.

For 5 other States (Arkansas, Mississippi, New Mexico, Oklahoma, and South Carolina) the comparison by the two methods is inconclusive, suggesting that in general and on the average the differences between State benefit rates and the equivalent weekly rates under the act are small. For the remaining 32 States the weekly benefit amounts are appreciably higher than the equivalent rates under the act; in 5 of them—California, Illinois, Michigan, Pennsylvania, and Wyoming, which include nearly 27 percent of the total number of railroad employees—the average benefit rate under the State law is at least 50 percent greater than under the Federal act. It is not surprising, therefore, that the average benefit rate under State laws for the country as a whole exceeds by nearly 29 percent the equivalent weekly rate under the Federal act. It is also noteworthy that for nearly three cases out of four the weekly benefit under the State laws is greater than under the Federal act for the same wage credits.

With respect to the maximum amount of benefits in the benefit year, the comparison yields at first glance almost diametrically opposite results. In only 5 States out of 43 does the proportion of cases with maximum benefits larger than under the railroad act exceed 50 percent and the State maximum exceed $185, the average applicable to the railroad act. Among these 5 States are California, with a maximum potential duration of 26 weeks, and Montana and Ohio, with uniform potential durations of 16 weeks. For 8 other States the comparison is inconclusive, suggesting that the differences are on the whole small. For the remaining 30 States, however, maximum benefits under State laws were appreciably lower than under the Federal act, although for 19 of them the State weekly benefit was definitely above the equivalent rate in the railroad system. For the country as a whole, maximum benefits under the railroad act were higher in about 62 percent of the cases; the net average excess over the State level was about 13 percent. Obviously, these figures do not indicate whether and to what extent longer duration can offset lower weekly benefit levels—from the standpoint of either the unemployed worker or sound social policy.

More significance attaches to this study when the results are presented separately for each benefit class. As may be seen from the averages for the country in table 1, the deficiency in the benefit rate under the railroad act does not occur at all in the group with base-year wages of $150–199 and is not too large for the group with annual compensation of $200–474. For these groups the equivalent weekly rates under the Federal act are $7 and $8, respectively, as compared with an average of $5.75 and $9.50 in the State systems. The disparity becomes really wide for the higher compensation classes, in which the difference in favor of the State systems ranges from $3.25 to $4.25 per week. Moreover, for the classes with base-year wages of $750 or more the longer duration under the railroad act in no sense compensates for the

Table 2.—*Comparison of railroad unemployment insurance benefits and full-time wages for selected occupational groups of employees of class I railroads, fiscal year 1939–40* [1]

Occupational group	Average full-time wage for a period of 2 weeks	Average benefit for 15 consecutive days of unemployment	Ratio of benefit to wage loss in 15-day period (percent)	Percent of occupational group to total for class I railroad employees	
				Beneficiaries	Benefit half months
Skilled crafts:					
Maintenance of way and structures, skilled	$59.50	$19.22	32.3	2.5	2.2
Maintenance of equipment, skilled	67.80	20.08	29.6	14.6	10.9
Train, engine and yard service, junior occupations	79.44	18.77	23.6	14.3	14.1
Other manual workers:					
Maintenance of way and structures	38.65	16.62	43.0	30.1	33.8
Maintenance of equipment and stores	43.20	17.97	41.6	6.2	6.1
Helpers and apprentices (maintenance)	48.00	18.84	39.3	12.9	10.9
Freight handlers	50.04	17.47	34.9	5.5	6.8
White-collar employees:					
Clerical	68.76	19.30	28.2	2.8	3.5
Station agents and telegraphers	71.15	19.49	27.4	1.9	1.9

[1] Full-time wage is calculated from data on average hourly and daily earnings by occupation for 1938, compiled by the Interstate Commerce Commission. For all occupations other than skilled crafts in maintenance of way and structures and in maintenance of equipment, and helpers and apprentices, a full week is assumed to consist of 48 hours or 6 days; for excepted occupations a full week is set at 40 hours. The occupations are combined by means of weights proportional to number of employees with less than 12 months of service and with credited compensation of $150 or over in 1938, as compiled by the Railroad Retirement Board. Other figures in table are calculated from sample of benefit certifications covering first full year of operation under the Railroad Unemployment Insurance Act.

lower weekly benefit amount; for these classes there appears to be little difference between the Federal system and the State averages in the maximum amount of benefits in the benefit year.

Benefits by occupational groups.—Experience in payment of benefits made it also increasingly clear that the original theory exaggerated the concentration of unemployment in the railroad industry in the groups with relatively low wage rates. Large numbers of skilled and semiskilled employees, particularly in the shops and in the train-and-engine service, registered as unemployed and claimed benefits. Under the provisions of the act, employees in these groups could not conceivably become entitled to benefits that would approximate half their full-time wage. The results of the first full year of operation bearing on this point are summarized in table 2, which covers approximately 90 percent of the compensable unemployment among employees of class I railroads, by far the largest class of employers subject to the act. The occupations omitted consist of supervisory employees, the senior grades in the train-and-engine service, restaurant and kitchen employees, marine workers, and other groups for which the ratio of benefits to full-time wages is of no interest for the purposes of this discussion.

In this table, low wage-rate groups account for only 60 percent of the unemployed workers who received one or more benefits and for approximately 65 percent of their compensable unemployment. These figures are based on a broad definition of low-wage groups, in which are included not only unskilled and semiskilled manual workers but also the helpers and apprentices in the skilled crafts. Even for these groups, however, benefits for a half month of total unemployment compensate on the average only 35 to 43 percent of the wage loss. For other employees the degree of compensability is much lower; for the skilled crafts it ranges on the average from 24 to 32 percent, and for white-collar employees it does not exceed an average of 28 percent.

Intermittent unemployment.—The discussion so far has dealt only with half months of total unemployment, which, it was anticipated, would account for substantially all the unemployment in the industry. On this point, too, experience showed that the original theory is subject to serious qualifications. Of the total number of claims submitted by eligible workers which were processed in the first year of operation, only 52 percent were for half months with 15 days of unemployment. Of the remainder, 14 percent covered half months with 7 or fewer days of unemployment and 34 percent covered half months with 8 to 14 days of unemployment. A sample study of half months by number of days of unemployment suggests that the number of half months with 7 or fewer days of unemployment would probably have been larger if eligible employees had registered with respect to every day of unemployment which they incurred. Undoubtedly many employees neglected to do so when they were certain to go back to work in a few days, because under the act they could receive neither benefits nor credit for waiting period for a half month with fewer than 8 days of unemployment. Even when taken at face value, the figures show clearly that, at least in a year when employment conditions are fairly good, unemployment among eligible workers is by no means continuous. Much of the unemployment apparently occurs in short spells, the benefits for which compensate a

smaller proportion of the wage loss than in cases of total unemployment in 15-day periods.

Moreover, continuity or intermittency of unemployment appears to be related much more to the department or service in which the employee works than to his occupational grade or the wage-rate level. An analysis of a sample of benefit certifications in the first year by the duration of unemployment in the half months to which they apply shows, for example, that for the skilled crafts in maintenance of way and structures 73 percent of all certifications were for half months with 15 days of unemployment, while for other manual workers in the same departments the proportion was 71 percent. For maintenance of equipment and stores the proportions for the skilled and other manual workers were 53 and 55 percent, respectively; only for helpers and apprentices, a group which includes some employees also in maintenance of way and structures, was the proportion as high as 59 percent. The lowest proportions of continuous unemployment were found for freight handlers—37 percent—and for the junior occupations in the train, engine, and yard service—48 percent; these percentages obviously reflect the conditions of employment in these departments rather than the degree of skill required or the rate of pay.

The figures therefore lend no support to the theory that higher compensation was provided under the act for wage losses among the lower wage groups because their unemployment tends to be continuous. Experience showed that continuity of unemployment is characteristic of certain departments of railroad operations subject to pronounced seasonal fluctuations; all groups of employees in such departments are equally liable to suffer long periods of continuous unemployment. In other departments there is relatively little difference in the character of unemployment as between the skilled and the unskilled.

Maximum duration and waiting period.—The results of the first year of operations also have an important bearing on the other aspects of the benefit formula—the maximum potential duration and the waiting period. During that year, of 160,735 persons for whom one or more benefit payments were certified, only 29,303, or a little more than 18 percent, were unemployed long enough to draw the maximum amount of benefits to which they were entitled during a benefit year. This crude calculation understates the figure significant for this discussion, namely, the proportion of beneficiaries who draw the maximum amount of benefits before their benefit year expires. On the basis of data available at present it is estimated that the exhaustion rate will probably be about 27 percent. For at least two-thirds of the beneficiaries, therefore, an extended duration of benefits in the year is of no material consequence, at least when employment conditions are as favorable as they have been since June 1939. For this group long duration is in no sense an offset for low weekly benefit amounts. The significance of this inference is magnified by data which suggest that for the higher wage-rate groups, for whom weekly or semimonthly benefit rates compensate a lower proportion of the wage loss than for other employees, the exhaustion rate is also much lower.

Experience in the first year of operation probably exaggerated the effect of the waiting period in reducing the amount of benefits, because the volume of unemployment during that year was comparatively small. However, even after account is taken of this qualification, the figures for the first year are striking. They show that, if the waiting-period requirement had been eliminated, benefits on the average would have been raised about 19 percent. Included in this calculation is the group of claimants who drew the maximum amount of benefits to which they were entitled for the year and whose benefits were therefore unaffected by the waiting period. Excluding this group, the average increase in benefits by elimination of the waiting-period requirement works out to 23 percent. Granted that in a year with greater unemployment the effect of the waiting period would have been smaller, the question of justifying so restrictive a requirement still remained.

This question appeared to be particularly relevant because the arguments ordinarily advanced for a waiting period are not applicable to the railroad unemployment insurance system. A justification on administrative grounds—to afford sufficient time for the initial determination of benefit rights—obviously is irrelevant, since rights of the great majority of covered workers are in fact determined about a month before the earliest possible beginning of the benefit year. Statements of compensation and service credited for the calendar year are prepared and distributed

by the Board in the following May and June to all employees; these statements represent in fact initial determinations of benefit rights for the year beginning on or after July 1. The argument that it is preferable to make relatively larger payments to workers with long periods of unemployment than to disperse benefit funds through small payments to workers with short periods of unemployment presupposes that the condition of the reserve compels a choice between the two alternatives. A comparison of the aggregate benefit outgo in the first year of operation with the contributions applicable to that period clearly suggested that it would be possible to pay larger benefits to workers with short periods of unemployment without penalizing other groups of claimants.

Extent of possible increase in benefits.—From July 1939 through June 1940 a total of approximately $14,811,000 was certified in benefits. If account is taken of benefits certified after June 30, 1940, for unemployment which occurred prior to the end of the fiscal year, it is probable that the benefit outgo for the year would amount to a little more than $15,000,000. By the end of September 1940 a total of about $65,470,000 had been collected in contributions, interest, and penalties for the year July 1939–June 1940. Ninety percent of this figure, or about $58,923,000, is available for the payment of benefits; the remainder is appropriated under the act for administrative expenses. It appears therefore that less than 26 percent of the contributions accruing for the fiscal year was actually paid in benefits. A clear indication is thus afforded that benefit levels can be raised.

The next question relates to the extent of the possible increase in benefits, if on the one hand solvency of the unemployment fund is to be assured through all the vicissitudes of the business cycle and on the other the accumulation of unduly large and unnecessary reserves is to be prevented. There are no absolutely reliable data furnishing an answer to this question, nor can they become available until sufficient experience is accumulated with the operation of the railroad unemployment insurance system or a system similar to it. For the time being reliance must be placed on such approximate indications as can be derived from other sources.

The experience of the British unemployment insurance system from 1929 through 1939 shows that at their peak annual benefit payments are about 2.4 times as large as the outlay in years when unemployment is at its lowest. The differences between the benefit features of the British plan and the employment history of the British industry on the one hand and the corresponding factors in the railroad system in this country on the other all point to the fact that this measure of the range of benefit payments exaggerates the probable experience under the railroad act. Paralleling this measure of fluctuations in benefits, statistics of railroad pay rolls in this country for the period from 1933 through 1939 suggest that in a year of low employment contributions are likely to be not less than 70 percent of the contributions applicable to a year of high employment. Even after account is taken of probable increases in railroad pay rolls in 1940 and 1941—as a result of industrial expansion in connection with the defense program, which can scarcely be regarded as a normal phase of the business cycle—the lowest annual contribution amounts to not less than 66 percent of the highest annual figure.

On the basis of these conservatively estimated factors and using the conservative assumption that the number of good years is the same as the number of bad years, the following equation can be set up: $1b+2.4b=1c+.66c$, where b is the benefit outlay in a year of high employment and c is the contribution applying to the same year. This equation shows that in a very good year benefit outlay may amount to nearly 49 percent of the contributions accruing for that year without destroying the solvency of the fund; this would permit the payment in a bad year of benefits exceeding 175 percent of the contributions applying to such period. In the light of this calculation, the experience of 1939–40, with benefits amounting to less than 26 percent of the contribution accruals, means that the benefit outlay could be nearly doubled. Since the estimating procedure includes obvious elements of a conservative bias and since employment conditions in the year 1939–40 were by no means the most favorable for the period used, it is safe to say that benefit payments could be raised by more than 100 percent.

Recommended Changes in the Benefit Formula

Analysis of the experience in the first year of operation and of supplementary data indicated the areas in which changes appeared to be most

desirable and the extent to which benefit levels could safely be raised. For administrative reasons these changes were to be made in such a way as to retain as much as possible of the external characteristics of the benefit formula. Understanding by claimants of their rights is always essential to the smooth functioning of the system, and radical departures from the principles to which the claimants had become accustomed in the first year would have caused confusion and complaint. This was clearly so in a system in which the administrative agency has no every-day direct contact with the claimant, because the functions of registration and claims taking are performed by 45,000 minor supervisory employees of the railroads. Even the task of training this vast army of part-time claims takers in the intricacies of a new formula while they were actively engaged in the administration of the system under the current formula would be an extremely difficult and hazardous undertaking.

Change in the number of benefit days.—The change most definitely indicated by the various studies was in the benefit payable for a single claim and benefit period, 15 consecutive days under the act as it then stood. It was essential to raise the amount of benefit payable for substantially all claimants, but more particularly for semiskilled and skilled manual workers and the white-collar groups. Moreover, the benefit payable for partial unemployment in such periods was to be increased more than the benefit for total unemployment.

Clearly the simplest device for accomplishing part of this result would be to increase the number of days of unemployment in the period for which benefits are payable. An addition of even 1 benefit day to the maximum of 8 originally provided would obviously increase benefits all along the line, and would also provide for a greater relative addition for partial unemployment. Thus a claimant with 15 days of unemployment would have his benefit raised by 12.5 percent, while a claimant with 10 days of unemployment would receive an addition of 33.3 percent.

There is a definite limit beyond which an increase in the number of benefit days would violate the principles of sound unemployment insurance. In a 15-day period this limit is 10 benefit days; the remaining days will include 2 Sundays and 2 Saturdays and 1 other day, which may also be a Saturday or a Sunday. To provide for 11 benefit days would mean the payment of benefits to some fully employed persons who regularly work a 5-day week. This problem cannot be solved by a statutory exclusion of Sundays, because in an industry in which the most important departments operate continuously the normal day of rest for some employees will not fall on a Sunday.

The limit can be pushed a little farther in a 14-day period, which always includes only 2 Sundays and 2 Saturdays and for which it is possible to provide that benefits be payable for all days of unemployment in excess of 4. Such a provision would moreover abolish insofar as practicable the difference between compensation for partial and for total unemployment: a 5-day per week worker who was unemployed for only a part of the 14-day period would be compensated for his wage loss in practically the same proportion as if he were totally unemployed throughout the period. This result could be accomplished even better in a 7-day period with a maximum of 5 benefit days; but, apart from doubling the claim load and the consequent addition to the administrative expense which a 7-day benefit period would entail, such a change would require too drastic a departure from the established registration and claims-taking routines.

The first change recommended was accordingly that a registration period of 14 days with a maximum of 10 benefit days be substituted for a half month of 15 days with a maximum of 8 benefit days. The effect of this change is to raise benefit levels for all employees. The amount of increase is approximately 43 percent for total unemployment in a period of 14 consecutive days, and an average of about 86 percent for cases of 8–13 days of unemployment. In addition, benefits are payable to employees who have 5–7 days of unemployment, to whom benefits are denied by the original formula. The equivalent weekly benefit for total unemployment would by virtue of this change range from $8.75 to $15.00, with 4 intermediate rates spaced $1.25 apart.

Change in daily benefits.—This change in the number of benefit days would provide fairly satisfactory benefit rates for employees whose full-time weekly wage is between $18 and $25. Employees with weekly wages of $18 to $20—the number whose wages are below $18 is relatively so small that they need not be considered here—would require only 10 weeks of full employment

in the base year to become entitled to a weekly benefit approximating half their wage. Employees whose wages range from $21 to $25 would qualify for a benefit compensating half of the wage loss if they had about 6 months of employment in the base year. For workers with more employment in the base year, the weekly benefit would be somewhat larger, but in no case would it approach dangerously close to the full-time wage. The benefit would exceed 60 percent of the wage only for employees whose wage was less than $23 if their employment in the base year exceeded 36 weeks. Under no circumstances would the benefit reach 70 percent of the full-time wage.

For employees with wages over $25, application of the benefit rates provided in the original act to the 14-day period with a maximum of 10 compensable days would produce far less adequate results. Employees with wages of $26 to $30 would require a minimum of about 36 weeks of full employment in the base year to entitle them to a weekly benefit approximating one-half of the wage. Employees with wages exceeding $30 could not in any case become entitled to a weekly benefit equal to 50 percent of the wage, because the maximum benefit is set at $30 for 14 days, or $15 per week. As may be seen from table 3, the number of such workers and their proportion of the total is by no means small, even if it is assumed that unemployment among workers with base-year earnings of $2,000 or over is so insignificant that it should for practical purposes be disregarded. More than 13 percent of the total eligible employees of class I railroads have a full-time weekly wage of $25 to $29, and more than 47 percent a wage of $30 or greater. To provide adequate weekly benefits for these groups an increase in daily benefit amounts is required.

After some experimentation it was recommended that the daily benefits for employees with base-year compensation of $1,000 or over be changed as follows:

Base-year compensation	Daily benefit amount	
	Original	Recommended
$1,000-1,024	$2.50	$3.00
1,025-1,299	2.75	3.00
1,300-1,599	3.00	3.50
1,600 and over	3.00	4.00

This change would permit weekly benefits of $17.50—nearly as high as the highest maximum in State systems, which is $18.00—and even of $20.00. Although barely affecting employees with weekly wages of $25 or less, the change would materially improve the position of the groups with weekly wages from $26 to $40. The benefit for employees with wages of $26 to $30, for which they would be qualified by 36 weeks of base-year employment, would range from 52 to 58 percent of their wage loss. About the same amount of employment would entitle employees with weekly earnings of $31 to $40 to a benefit ranging from 45 to 57 percent of the wage loss. Even employees whose wages range from $41 to $50 would be qualified by the same amount of employment to a benefit compensating 40 to 49 percent of their weekly wage loss. A summary showing the qualifying amount of base-year employment required for a benefit equal to at least 40 percent of the weekly wage, and the ratio of benefit to wage loss for different base-year compensation classes under this proposal is presented in table 4.

It is interesting at this point to examine the effect of the two recommended changes in the benefit formula on the comparison with benefit levels in the States discussed in connection with table 1. These changes would substantially equalize weekly benefits under the railroad system and those in the States, as may be seen from the following figures:

Base-year compensation	Average State rate	Rate under RUIA	
		Old	New
Total	$11.90	$9.25	$12.20
$150-199	5.75	7.00	8.75
200-474	9.50	8.00	10.00
475-749	12.50	9.00	11.25
750-1,024	14.25	10.00	12.50
1,025-1,299	15.00	11.00	15.00
1,300 and over	15.25	12.00	[1] 19.05

[1] Obtained by the use of weights proportionate to number of class I railroad employees with credited compensation for 1938 of $1,300-1,599 and of $1,600-1,999.

It is also important to note the effect of these changes on the ratio of benefits to wages by occupational groups. For the skilled crafts the new ratios will be from 41 to 43 percent as compared with 30 to 32 percent under the original benefit schedule. For other manual workers the old range

Table 3.—*Distribution of employees of class I railroads with credited compensation of $150–2,000 for 1938, by amount of full-time weekly wage* [1]

Full-time weekly wage	Number [2]	Percent
Total	790,806	100.0
Under $18	30,286	3.8
18.00–19.99	155,811	19.7
20.00–24.99	127,716	16.2
25.00–29.99	107,096	13.5
30.00–34.99	197,089	25.0
35.00–39.99	105,084	13.3
40.00–44.99	43,434	5.5
45.00–49.99	11,784	1.5
50.00 and over	11,906	1.5

[1] Full-time wage estimated from average hourly or daily earnings for 1938 as calculated by the Interstate Commerce Commission, on assumption of a 48-hour or 6-day week for all occupations except skilled crafts in maintenance of way and structures and in maintenance of equipment and their helpers and apprentices; for these groups a 40-hour week was assumed.

[2] Number of employees obtained from tabulations of the Railroad Retirement Board; does not include employees whose occupation was not reported or employees in 4 relatively small occupations not recognized as such in the occupational classification used by the Commission.

of ratios from 35 to 43 percent is lifted to a new level of 44 to 54 percent. For white-collar employees *the benefit will compensate for 38 percent* of the wage loss as compared with 28 percent under the old rates. Only for the junior occupations in the train-and-engine service does the changed schedule fail to raise the average benefit-wage ratio above 31 percent.

Change in potential duration.—The recommended change in the number of benefit days in a registration period clearly required an extension of the potential duration of benefits from 80 days in the benefit year to 100 days. The act originally provided benefits for 10 half months of total unemployment; under the proposed formula 10 registration periods of total unemployment would entail benefits for 100 days. Failure to extend duration would therefore amount to a reduction in the duration of benefits granted in the original act, a result which was scarcely consonant with the purpose of the amendments. Accordingly it was proposed that the limitation on benefits in a benefit year should be reworded to provide for a maximum of 100 daily benefit amounts instead of 80.

In fact a consideration of the experience in the first year of operation led to a proposal for an independent change in the duration provisions. As shown above, the duration of benefits under the railroad act, which is somewhat longer than the maximum so far adopted in most State systems, was merely a theoretical advantage for at least two-thirds of the claimants under the favorable employment conditions in 1939–40. True, if the volume of unemployment had been larger, more use would have been made of the long duration; this fact, however, does not detract from the validity of the statement that, in some years at least, the extended duration of benefits is a right not likely to be exercised by the great majority of the eligible unemployed.

This conclusion necessarily leads to a reconsideration of the argument which was originally advanced for a 5-month benefit period in the year. The justification was in terms of concentration of unemployment in certain groups whose annual amount of unemployment tends to be great. The argument, however, fails to distinguish between the various types of unemployment peculiar to the different groups in the industry. For the track and bridge-and-building departments unemployment is largely seasonal in character, and for many employees, particularly in the northern regions, it extends over a number of months in the year. For shop employees unemployment is, under normal conditions, intermittent, with some tendency to concentrate toward the end of months or quarterly fiscal periods. Usually unemployment in the junior occupations in the train-and-engine service is equally sporadic; it also reflects to some extent the seasonal fluctuations in freight and passenger movements. Among the station forces unemployment is important only for freight handlers, where a certain amount of casual and spread-the-work employment is found. Except in the track and bridge-and-building departments, therefore, prolonged unemployment is usually infrequent. It attains really large proportions, however, in periods of depression and affects particularly the shops and the junior train-and-engine occupations. For these groups a long duration of benefits, although not generally used in good times, becomes an extremely valuable asset when railroad business is slack. Generally speaking, such employees could in most years well do with shorter duration than that provided in the act, but would require considerably longer duration in some years.

Primarily to accommodate this type of case, a proposal was developed to permit the carrying over of unused benefit rights from one benefit year into the next. As finally recommended, this change would set the maximum number of days in the benefit year at 100 plus an addition, not exceeding 50 days, equal to the difference between 100 and

the number of days for which benefits were drawn in the preceding benefit year. This right would of course be limited to those eligible for benefits in both the preceding and the current benefit years. The proposal amounts to a definition of potential benefit duration in terms of 2 successive years, with a limit of 200 days for the 2 years taken together and a limit of 100 to 150 days in the second year depending on the number of benefit days in the first year. It is somewhat similar to the British provision of additional days beyond the 26 weeks' normal duration, and to the additional benefits incorporated in some of the early State statutes in this country but repealed as unworkable before benefit payments began. Unlike these State provisions, however, which required wage and benefit records over a period of 5 years, the carry-over proposal could be readily administered because it requires nothing more than a determination of eligibility for 2 years and a record of the number of daily benefits drawn in the preceding year.

This proposal, it was felt, would prove of definite assistance not only in periods of severe cyclical decline. It would be equally helpful in individual cases in which the pattern of unemployment is affected by special conditions, and also for groups of workers who may be displaced because of technological innovations, consolidation or coordination of facilities, and abandonment of operations. Moreover, it would tend to mitigate the rigidity of a uniform benefit year, the adoption of which was recommended on other grounds, and to offset in part the restriction of benefit rights entailed for some employees in the substitution of a uniform for an individual benefit year.

Change in the waiting period.—As stated above, the waiting-period requirement in actual operation

Table 4.—*Ratio of benefit to wage and amount of required employment in base year for employees classified by amount of full-time weekly wage and amount of base-year compensation, under the Railroad Unemployment Insurance Act as amended in 1940* [1]

Full-time weekly wage	Base-year compensation and weekly benefit classes													
	$150-199 ($8.75)		$200-474 ($10.00)		$475-749 ($11.25)		$750-999 ($12.50)		$1,000-1,299 ($15.00)		$1,300-1,599 ($17.50)		$1,600 and over ($20.00)	
	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required	Percent of full-time wage	Weeks of base-year employment required
$18	49	8	56	11	63	26	69	42						
19	46	8	53	11	59	25	66	39						
20	44	8	50	10	56	24	63	38	75	50				
21	42	7	48	10	54	23	60	36	71	48				
22	40	7	46	9	51	22	57	34	68	45				
23			44	9	49	21	54	33	65	43				
24			42	8	47	20	52	31	63	42				
25			40	8	45	19	50	30	60	40	70	52		
26					43	18	48	29	58	38	67	50		
27					42	18	46	28	56	37	65	48		
28					40	17	45	27	54	36	63	46		
29							43	26	52	34	60	45		
30							42	25	50	33	58	43		
31							40	24	48	32	57	42	65	52
32									47	31	55	41	63	50
33									46	30	53	39	61	48
34									44	29	52	38	59	47
35									43	29	50	37	57	46
36									42	28	49	36	56	44
37									41	27	47	35	54	43
38									40	26	46	34	53	42
39											45	33	51	41
40											44	33	50	40
41											43	32	49	39
42											42	31	48	38
42											41	30	47	37
44											40	30	45	36
45													44	36
46													44	35
47													43	34
48													42	33
49													41	33
50													40	32

[1] Table limited to base-year employment required to qualify for benefit equal to at least 40 percent of weekly wage. Obviously, at each wage listed, employees may qualify for lower benefits with shorter periods of employment in the base year.

was equivalent to 3 weeks, which was longer than that provided in most State laws. In addition the waiting period was discriminatory, since some employees were not compensated for 15 days of unemployment while others, whose unemployment was intermittent, could have as few as 8 days which were noncompensable. The waiting period was particularly hard on employees with 2 or more half months of continuous unemployment; these had to wait as long as 37 or 38 days for their first benefit check, the last week of the period being required for adjudication and transmission of documents in the mail. The situation of these employees would be improved by making some benefits payable for even the first period of unemployment. This result could have been accomplished by applying to the proposed benefit formula the principle underlying the original requirement. The resulting waiting-period provision would amount to granting benefits for the first registration period for every day of unemployment in excess of 11, or a maximum of 3 daily benefits. No independent liberalization of the waiting period would have been involved in such a provision, because the number of noncompensable days is merely the sum of half the maximum number of days of unemployment in the period—the original minimum requirement—and of the regular number of noncompensable days in any registration period. The experience of the first year, however, was such as to suggest that liberalization was both desirable and practicable. For this reason the change in the waiting-period requirement finally recommended was that in the first registration period benefits should be payable for each day of unemployment in excess of 7, and that a first registration period with only 7 days of unemployment should be accepted for waiting-period credit.

This requirement would permit the payment of benefits for even the first registration period to claimants who were unemployed for more than half the number of days. For such claimants the noncompensable waiting time would be limited to 3 days. However, for other claimants the requirement would in fact be more stringent, because no benefits would be payable for any registration periods with less than 8 days of unemployment which precede the first registration period with at least 7 days of unemployment.

Estimate of cost.—The changes in the benefit formula recommended by the Board were estimated to entail an addition of no more than 115 percent to the benefit cost of the formula in the original act. This figure applies to a period covering an entire business cycle. In good years the addition to the cost would probably be considerably smaller and in bad years considerably greater. Since the employment outlook for the next 2 or 3 years is definitely favorable, there was no hesitation in recommending these changes even though the tentative calculation outlined above indicated a limit of approximately 100 percent for the increase in benefits. This estimate of the ratio of benefits to contributions was on the face of it conservative. Moreover, a reliable measure of this type can be obtained only from actual experience. It was felt that in the next few years such experience can be gained under conditions in no way endangering the solvency of the system. This was true not only because of the favorable employment outlook but also because of the large reserve already available, which was more than $130 million at the end of June 1940. This reserve consisted of more than $100 million transferred or due from the State unemployment funds, and approximately $30 million representing the excess of collections over benefit payments in the first year of operation.

The estimated addition to benefit cost was composed of several items. The substitution of a registration period of 14 days with a maximum of 10 benefit days for a half month of 15 days with a maximum of 8 benefit days, with the necessary increase in the maximum number of benefit days in the year from 80 to 100, was estimated to add about 42.8 percent. The changes in daily benefit amounts, affecting as they do only employees with base-year compensation of $1,000 or more, were estimated to add only about 5.6 percent. Both of these figures were calculated from a sample of records representing the first 4 months of claim and benefit experience. During this period beneficiaries in groups with higher base-year compensation and with intermittent unemployment had a greater weight than in the remaining months of the year. Since the increase in the benefit rights for these groups was greater than for beneficiaries with lower base-year compensation and with total unemployment, it was

apparent, even at the time the calculations were first completed, that the resulting figures overstate the most probable addition to cost.[4]

Similarly, for a year of severe unemployment these figures would overestimate the addition to the cost, because of increases in the number of benefit days in the period and in the daily benefit amounts. In such a year the proportion of registration periods with total unemployment would be much greater than it was in 1939–40; hence the estimate of nearly 43 percent for the increase in the number of benefit days would be too high. At the same time the proportion of beneficiaries in the base-year compensation groups of $1,000 or over would probably be much larger; hence the estimate of less than 6 percent for the increase in the daily benefit amounts would be too low. However, since the first of these figures is more than 7 times larger than the second, the net effect would apparently be an overstatement of the addition to cost.

No current data were available for a cost estimate for the other proposed changes. The additional cost of the reduction in the waiting period was estimated on the basis of the distribution of unemployed workers by duration of unemployment used in the actuarial calculations underlying the original act. After the duration table was adjusted to agree with the expected exhaustion rate for the first year of operation, it appeared that the additional cost entailed by the shorter waiting period would be about 14 percent. This estimate was applicable to conditions when unemployment was low; in years of severe unemployment the additional cost of a shorter waiting period would be lower.

For an estimate of the cost of the carry-over provision—the addition of a maximum of 50 benefit days in one benefit year for unused rights in the benefit year immediately preceding—reliance had to be placed mainly on a small sample. For these cases the record of earnings month-by-month over the period 1937–39 was processed in such a manner as to yield a measure of the unemployment experienced and a description of its time pattern. The estimate thus obtained is an addition of 25 percent to cost for the average year; in good years the addition would probably be insignificant, whereas in bad years it might be more than double the average. Although the factual foundation for this estimate was slender, it is probable that it too does not understate cost. The duration table previously referred to shows that the additional cost of extending from 100 to 150 days in the year the potential duration of benefits for all eligible employees would be about 31 percent. The cost of the carry-over provisions should certainly be lower than that of an outright increase in potential duration by 50 percent.

[4] Estimates based on analysis of the first full year of operation clearly show the overstatement in the original calculation. In 1939-40 the change in the number of benefit days would have added 39.6 percent to the cost, and the change in daily benefit amounts 3.9 percent.

Changes in the Benefit Formula Enacted Into Law

The changes discussed above were supported by representatives of organized labor but were not fully accepted by the representatives of management. The latter were prepared to support the substitution of a registration period with 10 benefit days and the increase in the daily benefit amount for employees with base-year compensation of $1,000 or more. Opposition was voiced, however, to the reduction in the waiting period, to the apparent extension of potential duration, and most of all to the carry-over provision. The objection to the increase in potential duration to 100 days and to the waiting-period change was grounded largely in the belief that such a change would set standards higher than those accepted in the majority of the State systems. The carry-over provision was attacked as a radical departure from principles of unemployment insurance established in this country and as an addition to benefit rights the full cost of which cannot be accurately estimated. It was also argued that this provision, designed to help the groups that do not as a rule experience any significant amount of unemployment, perverts the purposes of unemployment insurance.

At first the representatives of management proposed also a slight reduction in the daily benefit amounts for employees with base-year compensation of less than $700. The daily rate proposed was $1.50 for employees with compensation of $150–399 (instead of $1.75 and $2.00 under original act); $2.00 for employees with compensation of $400–699 (instead of $2.25 for most of this group under original act); and $2.50 for employees with compensation of $700–999. However, since the differences were small and since it was obviously desirable to avoid numerous

changes in the external characteristics of the benefit formula, this proposal was withdrawn at the conclusion of the Senate Committee hearings on the amendatory bills.

The general tenor of the arguments advanced by management was that an addition to cost of 115 percent is altogether too drastic to be made after only a year of operation under the law. The changes supported by management entailed an additional cost of about 35 percent, which was held to be about as large an increase as is safe to grant until further experience could be accumulated. There was, furthermore, strong objection to the setting up of standards higher than those accepted in the more progressive and liberal State systems. Such a procedure would presumably put the railroad employees in a privileged class and at the same time unduly burden the industry, because the benefits are financed exclusively through employer contributions. With one-third of the railroad mileage in receivership and net operating income considerably below the level of the 20's, it was argued, the industry should not be required to support a system providing larger and longer benefits than those adopted for the rest of the insurance coverage. If the usual type of benefit can be financed with a contribution lower than 3 percent, then the rate of contribution should be reduced. Such a reduction would have been granted in any event in most State laws with individual employer-reserve or experience-rating features if a separate Federal system had not been created for the railroads.

Consistent with this line of thought, the representatives of management proposed an amendment which would relate the rate of contribution to the reserve in the railroad unemployment insurance account. The contribution rate would remain at 3 percent as long as the reserve, including amounts due though not actually transferred to the account, was less than $100 million. The rate would be reduced to 2 percent when the reserve was between $100 and $125 million and to 1 percent when the reserve was $125 million or greater. The change in the rate would be made as of the beginning of each fiscal year on the basis of the size of the reserve as of that date. In its original formulation the proposal would have resulted in an immediate reduction of the contribution rate to 1 percent. As a result of the hearings before the Senate Committee the phrasing was modified to assure a contribution of not less than 2 percent for the fiscal year 1940–41.

Although the proposal was characterized and defended as industrial merit rating, it differs from the type of experience rating incorporated in the laws of a number of States. The major difference is that in the State systems the benefit experience of the employees of each individual employer governs the variation in the employer's contribution rate. In the State laws the measures adopted by the employer to reduce fluctuations in employment and to minimize labor turn-over may be reflected in a reduction of the number of employees becoming entitled to benefits and in a decrease of the amount of benefits per claimant. With industrial merit rating, no such incentive is offered to stabilization of employment by individual employers, for the efforts of one employer may be completely nullified by the policies of another. Because the experience of individual employers is not controlling there is no need to maintain a record of such experience; this factor eliminates the objection usually advanced against merit rating from the standpoint of complexity and costliness of the administrative process. So-called industrial merit rating can therefore be neither justified nor condemned on the same grounds as experience rating in the State systems.

In the amendatory act adopted by Congress the proposals for a sliding scale of contributions and for a carry-over of unused benefit rights from one benefit year to another were eliminated. All the other changes in the benefit formula recommended by the Board were enacted into law, including the two features on which there was no agreement between management and labor—the reduction in the waiting period and the increase in potential duration to 100 benefit days in the year.

Other Amendments to the Act

In addition to modifications in the benefit formula the amendatory act contains other changes which affect the benefit rights of covered employees. These changes are noncontroversial in character and were recommended by the Board primarily with a view to simplifying and reducing the cost of administration. The more important are discussed below.

Changes in the benefit year and base year.—The original act provided for an individual benefit year, beginning with the first day of the first half month for which benefits are payable to an em-

ployee. The base year, however, was uniform for all employees whose benefit year began between July 1 and the following June 30; this was the calendar year preceding July 1. The inconsistency between an individual benefit year and a uniform base year was bound to lead to unnecessary complexities and misunderstanding. One of them was that, for an employee beginning a benefit year in April, May, or June, benefit rights were governed by earnings in a base period removed by at least 1¼ years from the period of unemployment; moreover, such determination would be controlling for the entire period of the following 12 months, even though a complete record of earnings for the calendar year following the base year had become available in the meantime.

Another complication was involved in the fact that the right to benefits for any half month of unemployment could be based on earnings in 2 different calendar years, depending on the date when the employee's current benefit year began. Since the date of occurrence of the initial spell of unemployment had no necessary relation to the current spell of unemployment, it was difficult to justify the apparently arbitrary selection of base years. This difficulty was magnified by the procedure, essential for other purposes, of distributing to employees in May and June official statements of compensation and service credited to them for the preceding calendar year. Equipped with such a statement, a worker unemployed in July 1940 could claim with some show of reason that he was entitled to benefits on the basis of wages earned in 1939, even though his benefit year in which the rights were based on 1938 wages had not yet expired; the readiness to press such a contention would of course be greatest in those cases in which the benefits based on 1939 wages were larger or in which the right to benefits based on 1938 wages had been exhausted although the benefit year was still current. The recommendation was therefore made and adopted by Congress that the benefit year be defined uniformly for all employees as beginning on July 1 and ending on the following June 30. The definition of the base year was not changed in principle, since it was uniform in the original act.

The effect of the new benefit-year provision upon the rights of employees varies with the individual's pattern of unemployment and of previous employment. Employees who exhaust their rights for the year some time prior to July 1 and who under the old definition of benefit year could not have begun a new benefit year for a number of months after July 1, will obviously be better off. Other claimants who draw only a fraction of the maximum benefits before July 1 and whose benefit year under the old law would extend for some months beyond July 1, may be adversely affected if they happen to suffer prolonged unemployment after July 1. It is probable that under normal conditions the net effect of the change is advantageous to the covered employees; in periods of rapid rise in unemployment, on the other hand, the number adversely affected may be large. The carry-over provision discussed above would, if enacted, have neutralized a major share of this uniform lapsing of rights on July 1.

In connection with the new definition of the benefit year, a change in the time at which the waiting period is served was also recommended and adopted. Originally the waiting period could be served at any time within 6 months of the beginning of the benefit year. Under the amended act the waiting period for a benefit year will be served in the benefit year in the first registration period which includes 7 or more days of unemployment. This change will result in considerable simplification, because it eliminates all registrations of workers who are not currently entitled to benefits. By the end of June 1940 nearly 12,000 claims had been received from workers who were not currently entitled to benefits but who might be able to begin in July or subsequent months a benefit year based on 1939 wages. In the period July–September nearly 12,000 additional claims of this type were received from workers who still had a benefit year current although their rights to benefits in such year were exhausted. In many cases two or more such claims were filed by the same individual. This huge mass of unnecessary paper work will be dispensed with because, under the act as amended, a claimant cannot serve before July 1 the waiting period for a benefit year beginning on that date; having served such a waiting period, he does not need to serve any additional waiting time until the following July.

When the amendatory bill was originally introduced in May it was thought that the legislation would be passed in time for the changes to go into effect on July 1. Because of the delay, the effective date of most of the changes was shifted to

November 1, thereby creating a special problem in regard to the benefit year ending on June 30, 1941. This problem has been met by a series of provisions based on the principle that all unemployment which occurred subsequent to June 30, 1940, is to be regarded as though it fell within the benefit year ending June 30, 1941. Employees who have completed a waiting period in half months ended after June 30, 1940, will not need to serve another waiting period before July 1941. Employees who had compensable days of unemployment in half months begun after June 30 and before November 1, 1940, will have these days charged against their rights in the benefit year ending June 30, 1941, whether such benefits were paid on the basis of wages for 1938 or on the basis of wages for 1939.

Changes in definition of unemployment.—A number of changes were made in the definition of various terms which modify the concept of a day of unemployment with respect to which an employee may register and claim waiting-period credit or benefits. The original act specified that an employee may register as unemployed with respect to any day in the week, including Sundays and holidays. When only days of unemployment in excess of 7 in a half month were compensable, there was no temptation to register with respect to Sundays and holidays unless the employee had at least 4 additional days of unemployment. With benefits payable for each day in excess of 4 in a 14-day period, it appears more important to prevent a large volume of Sunday and holiday registrations by persons who may wish to protect themselves in case 1 or more days of actual unemployment are added in the course of the same registration period. For this reason a provision was inserted to disqualify Sundays or holidays as days of unemployment unless the claimant also registered as unemployed on the day preceding and, except at the end of a registration period, also on the day following the Sunday or holiday.

Another change regulates the effect of income from employment or self-employment upon the validity of registration as unemployed. Originally the act provided that no day could be regarded as a day of unemployment if remuneration was payable with respect to such day. Remuneration was defined restrictively as pay for services for hire only (although it specifically included tips). Thus a claimant who during the lay-off period derived income from some work could be barred from benefits only if he performed the work in the capacity of an employee or on grounds of unavailability for suitable employment.

The first year's experience revealed at least two difficulties in connection with this provision. First, it was apparent that in some cases its literal enforcement resulted in discrimination that could not be justified on any objective consideration of the facts. If an electrician, for example, worked for an electrical contractor, his wage would definitely bar him from benefits; but if he performed the same work directly for the customer or customers of the electrical contractor, the pay received would not be for services for hire and would not make him ineligible for benefits. Second, it was obvious that to disqualify any day on which the man may have earned a few cents as an employee is unduly harsh. This difficulty assumed grotesque proportions in such cases as those of employees who were also officers of local lodges of labor organizations, fraternal organizations, or building and loan associations. The duties attached to these offices required perhaps one evening every week or every other week, but the pay for the services was formally calculated at a small amount per month. A literal interpretation of the law would have disqualified such employees from benefits for the entire month even though they were in fact unemployed in their regular full-time positions.

These difficulties are resolved by the following changes in the law. Remuneration is redefined to include income from self-employment. However, subsidiary remuneration does not disqualify a day as a day of unemployment. Subsidiary remuneration is defined as pay not in excess of an average of $1 a day for work which can be performed by the employee even while he is in active service on full time in his regular occupation.

Rights of mileage workers.—Under the act as amended in June 1939, any half month in which an employee earned, under a contract of employment providing for compensation on a mileage basis, 8 times his schedule daily rate of pay could not be claimed as a half month of unemployment. This provision, which applied mainly to employees in the train-and-engine service, was justified on the ground that labor agreements supported by long established practice imposed maximum limitations

on the amount of work that any one employee was allowed to perform in the course of a month. Experience in the administration of the act showed that limitations of this type apply also to certain employees in other departments. It was found furthermore that the provision discriminated in favor of workers who performed the maximum amount of work allowed for the month during the first half of the month and were therefore free to register as unemployed in the second half. Difficulty was experienced also in obtaining accurate information on the schedule daily rate of pay. Accordingly the old provision has been reworded to apply specifically to employees in the train-and-engine service, yard service, dining-car, parlor-car and sleeping-car service, and express service on trains. For such employees the disqualification applies to any registration period in which earnings equal at least 20 times the daily benefit amount and also to any registration period which constitutes the second half of a period of 28 days in which earnings equal at least 40 times the daily benefit amount. It is estimated that for this group of employees 20 times the daily benefit is roughly equivalent to 8 times the schedule daily rate of pay.

Registration period for transfers.—The definition of the registration period in the amendatory act is such that an employee transferring from one claims agent to another must begin a new registration period with the second claims agent even if the registration period with the original agent contains less than 14 days. This change from the original provision, under which the half month was a period of 15 days regardless of the number of claims takers involved, is designed to meet certain administrative difficulties. Under the regulations in the first year a transferring claimant would obtain from the original claims agent the duplicate of a transfer form to be turned over to the second claims agent. The purpose of the transfer form was to facilitate the correct preparation of claims and the matching of the two or more claim forms relating to the same half month. This procedure did not work well. The matching claim form from the second claims agent often contained registrations for an entire new half month, leaving the original claim unmatched. In some cases a large number of claim forms had to be combined in order to account for one half month, and in other cases no matching claim forms were received. The resulting confusion and delay worked to the disadvantage of the claimant and entailed an unjustifiable administrative cost. The obvious way out was to begin a new period with each transfer, a provision now made in the law.