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Director of Budget and Fiscal Operations

Associate General Counsel

Temporary Repayments to Railroad Retirement Account

This is in reply to your memorandum of June 1, 1959.

You ask whether under the provisions of section 10(d) of the Railroad Unemployment Insurance Act, as amended by Public Law 86-28, the Board could borrow, say, \$60 million from the Railroad Retirement Account for the payment of benefits and refunds under the Railroad Unemployment Insurance Act and, upon collection of, say, \$40 million in contribution receipts, refund only \$25 million of the \$60 million borrowed, even though the estimated payments under the Railroad Unemployment Insurance Act for the three months following such partial refund, are estimated to be \$50 million, so that at some later date the Board would again have to borrow the same \$25 million it had repaid, plus an additional \$10 million or so.

The answer to your question is in the affirmative.

The provisions of section 10(d) as a whole, giving the Board the authority to request a transfer of money from the Railroad Retirement Account to the credit, and for purposes, of the railroad unemployment insurance account, and requiring repayment of such money with interest, show that the section is intended to provide borrowing authority, and only borrowing authority, in emergency situations. See Senate Report No. 222, 86th Cong., p. 13; House Report No. 243, 86th Cong., pp. 13, 42. The provisions of the second sentence of section 10(d) for a retransfer to the Railroad Retirement Account, including the phrase "without regard to the amounts transferred pursuant to the next preceding sentence", are to be understood in the light of the general purpose to give the Board this special borrowing authority and nothing else.

So understood, the reference in the provision for retransfer "without regard to amounts transferred pursuant to the next preceding sentence", cannot be held to restrict a return of funds to the Railroad Retirement Account whenever and to whatever extent the Board finds it appropriate, particularly since the very same sentence provides for the retransfer of "such moneys as in its [the Board's] judgment are not needed

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for the payment of such benefits and refunds". Obviously, the latter phrase does not require full return at any one time of all the borrowed amounts then in the unemployment fund. See House Report No. 243, 86th Cong., p. 42 (specifying that "such borrowed funds are to be returned to the railroad retirement account whenever, and in such amounts, as the Railroad Retirement Board determines they are not needed for purposes of the unemployment insurance system").

In this connection it must be considered that to retain unneeded funds for any purpose unrelated to the immediate payment of benefits and refunds would be contrary to the borrowing purpose for which the authority to borrow was granted. Accordingly, in my opinion, the questioned words are to be construed as, at most, placing an outside limit on the return of borrowed funds and as not being any prohibition against the return earlier of any part of such funds.

David B. Schreiber
Associate General Counsel

CC: Chief Executive Officer

PMJ:bbt