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The Associate General Counsel

Section 303(a) of Public Law 86-28, Approved May 19, 1959

As you know, Section 303(a) of Public Law 86-28, approved May 19, 1959, provides for extending the period during which certain employees may draw benefits under the Railroad Unemployment Insurance Act. The purpose of this memorandum is to discuss those provisions.

Section 303(a) adds a new proviso to Section 2(c) of the Unemployment Insurance Act. Under this proviso a benefit year is, in the case of an employee who meets certain requirements, extended to include an "extended benefit period". In such a benefit year the maximum number of days of unemployment for which benefits may be paid the employee, and the total amount of benefits which may be paid him for days of unemployment, are enlarged to include all compensable days of unemployment within the extended benefit period. It is also provided that, under certain circumstances, an employee's benefit year may begin earlier than the general benefit year; in this case, too, his benefit year includes an "extended benefit period" but for convenience in discussion it is referred to in this memorandum as an "accelerated benefit year".

Eligibility for extended benefit period. To be eligible for an extended benefit period an employee must have had ten or more years

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of service as defined in Section 1(f) of the Railroad Retirement Act of 1937. This includes service prior to January 1, 1937, as well as service on or after that date. In addition to meeting the service requirement, the employee must not have voluntarily left work without good cause and must not have voluntarily retired. In determining whether a leaving of work was "voluntary" and "without good cause", and whether a retirement was "voluntary", the same principles should be applied as have been applied in connection with the disqualification provisions of Section 4 of the Railroad Unemployment Insurance Act, which contains similar expressions. To be eligible for an extended benefit period an employee must also have exhausted his current rights to normal benefits for days of unemployment in the benefit year. An employee should be regarded as meeting this requirement if (1) he has received benefits for 130 days of unemployment in the benefit year, (2) he has received unemployment benefits in the benefit year equal to his base-year compensation, or (3) at the end of a benefit year in which he was qualified for benefits he has drawn less than the maximum amount for which he was qualified. This view of "exhaustion" of rights corresponds generally to that expressed in regulations issued by the Secretary of Labor under the Temporary Unemployment Compensation Act.

Beginning of extended benefit period. An extended benefit period begins on the first day of unemployment following the day on which the employee exhausted his current rights to normal benefits for days of unemployment. Ordinarily, the day following the day on which an employee exhausts his benefit rights can be expected to be a day of

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unemployment. However, if an employee was working, or if he was sick, the beginning of an extended benefit period, if he is otherwise eligible therefor, is postponed until his first day of unemployment.

Duration of extended benefit period. An extended benefit period, unless terminated sooner in the manner discussed below, continues for a length of time specified in a table contained in the new proviso. The length of the period depends on the employee's number of years of service. It is expressed in terms of a given number of successive fourteen-day periods. In the case of an employee having ten but less than fifteen years of service the number of such fourteen-day periods specified in the table is seven, but it is also provided that benefits shall not be paid for more than 65 days of unemployment in the extended benefit period of such an employee. An employee having fifteen or more years of service is entitled to an extended benefit period consisting of thirteen successive fourteen-day periods. It is specifically provided that each of the fourteen-day periods shall constitute a registration period, and they are to be treated in all respects as registration periods, even though they may not conform to the definition of "registration period" in Section 1(h) of the Railroad Unemployment Insurance Act. While the first of the successive fourteen-day periods must begin with a day of unemployment, there is no such requirement with regard to the other fourteen-day periods. Once the extended benefit period has begun, each successive fourteen-day period thereafter can begin with a day of employment, or a day on which the employee is drawing sickness benefits. The proviso contemplates a continuous period of successive

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calendar days equal to fourteen times the number of periods specified in the righthand column of the table, subject to the 65-compensable-day limitation in the case of the 10-15 year employee. However, as stated above, the fourteen-day periods constitute registration periods, and the employee will be required to register for unemployment benefits just as he would have to if the fourteen-day periods were normal registration periods.

Termination of extended benefit period. There is one instance in which an extended benefit period may end sooner than is indicated by the table in the proviso. This would happen if, during the periods specified in the table, a new general benefit year begins and the employee is qualified for benefits in that year on the basis of compensation earned after the extended benefit period began. The extended benefit period would not be terminated by the beginning of a general benefit year in which the employee is qualified for benefits only by virtue of compensation earned before the beginning of the extended benefit period. An employee whose extended benefit period has been terminated is not precluded from having a new extended benefit period; there is no limit on the number of times an employee can qualify for an extended benefit period if he otherwise meets the requirements therefor.

Accelerated benefit year. As indicated above, the last sentence of the new proviso makes possible in certain cases what is referred to in this memorandum as an "accelerated benefit year". It applies to a situation in which an employee has fourteen or more consecutive days of unemployment but is not a qualified employee in the

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current benefit year. If he would be a qualified employee in the next succeeding general benefit year, that succeeding benefit year is, in his case, accelerated. It is regarded as beginning on the first day of the month in which his unemployment commenced. To be eligible for such an accelerated benefit year an employee must have had ten or more years of service, must not have voluntarily left work without good cause, and must not have voluntarily retired. In stating what employees may be eligible for an accelerated benefit year, the proviso refers to an employee who "is or becomes" a qualified employee for the succeeding general benefit year. Even if an employee, at the time he becomes unemployed, has not had sufficient compensation to qualify him for benefits in the succeeding benefit year, he ~~may nevertheless~~ becomes eligible for an accelerated benefit year, and for benefits with respect to that unemployment, if later in the base-year he earns sufficient compensation to make him a qualified employee for the succeeding benefit year. In such case retro-active payments would be made.

Sickness benefits. An employee's eligibility for an extended benefit period obviously has an important bearing on his rights to benefits for days of unemployment. There is one situation in which it may also affect his rights to sickness benefits. If during the general benefit year an employee drew benefits for less than 130 days of sickness (and assuming that his base-year compensation was such that it did not restrict the maximum amount of benefits he might receive in that benefit year), he could in the extended benefit period receive benefits

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for additional days of sickness, provided the total for the general benefit year and the extended benefit period does not exceed 130 days of sickness. The extended benefit year provisions are, of course, not applicable in the case of an individual who has not been unemployed. They should not be applied, for example, in the case of a man who has been continuously employed but becomes sick, exhausts his sickness benefits, and continues to be sick for two or three years. On the other hand, the amount of unemployment benefits the employee receives during the extended benefit period may be affected by the fact that he also receives sickness benefits for days in that period. This results from the fact that the extended benefit period is definitely limited to a specified number of successive fourteen-day periods. A day which is a day of sickness cannot also be a day of unemployment, and the receipt of sickness benefits for days in the extended benefit period will reduce the number of days for which unemployment benefits may be received.

Any questions of interpretation not answered in this memorandum will undoubtedly be submitted to this office by the bureau of unemployment and sickness insurance as they arise.

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cc: Secretary of Board
Chief Executive Officer
Director of Unemployment
and Sickness Insurance
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CHIEF ACTUARY

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