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STATEMENT OF

GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION

GENERAL ACCOUNTING OFFICE

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

HSE 04102

HOUSE COMMITTEE ON WAYS AND MEANS

ON

UNEMPLOYMENT COMPENSATION, TRADE ACT
WORKER ADJUSTMENT ASSISTANCE, TITLE V
PROVISIONS OF THE RAIL ACT, AND THE
REDWOOD EMPLOYEE PROTECTION PROGRAM

[Unemployment Insurance and
Special Employee Protection Programs]

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Mr. Chairman and Members of the Subcommittee, we are pleased to be here today to discuss the results of our work involving the unemployment insurance program and special employee protection programs that provide monetary payments and other benefits to adversely affected workers. The special assistance programs that we will be discussing are worker adjustment assistance authorized by the Trade Act of 1974, the title V Program of the Regional Rail Reorganization Act of 1973, as amended, and the Redwood Employee Protection Program authorized by the 1978 amendments to the Redwood National Park Act.

Our discussion will focus on differences in the treatment of affected workers, work disincentives, and problems or differences in program administration. We will also suggest an alternative approach to providing special assistance.

Our discussion will be based primarily on reports we have issued on the various programs in the last 2 years. However, information concerning the Redwood Employee Protection Program is drawn from a current review. We expect to issue a report on the Redwood program in about 2 months.

BACKGROUND

Unemployment insurance, established in 1935 as part of the Federal-State employment security program authorized

under the Social Security Act and the Wagner-Peyser Act, insures most workers against lost wages by providing temporary compensation to those who lose their jobs. The program is financed by Federal and State taxes paid by employers. In 1979 about 8 million people received \$8.7 billion in compensation.

The worker adjustment assistance program under the Trade Act provides weekly cash payments, training, employment services, and job search and relocation allowances to workers whose employment is adversely affected by import competition. Through September 30, 1979, about 508,000 workers had received cash payments totaling \$815 million--an average of about \$1,600 per worker. The average duration of payments per worker during fiscal year 1979 was about 28 weeks.

Title V of the Rail Act authorized a \$250 million fund to protect workers whose compensation, fringe benefits, working conditions, or rights and privileges were adversely affected by the reorganization of bankrupt railroads into the Consolidated Rail Corporation (Conrail). Between April 1976 and May 31, 1979, the Railroad Retirement Board with-^{HCC}_{CC 253} drew \$192.3 million from the fund to reimburse Conrail and seven other employers for benefits paid to about 36,500 protected workers. Payments consisted of monthly cash allowances, separation allowances, termination allowances, fringe benefits, and moving expense benefits.

In March 1978 the Congress added 48,000 acres to Redwood National Park in northern California. Recognizing that expansion of the park could adversely affect certain workers, the Congress established the Redwood Employee Protection Program which directs the Secretary of Labor to provide assistance such as monetary payments, training, and job search and relocation allowances to adversely affected workers.

As of September 30, 1979, 1,735 workers had been determined eligible and \$11.4 million in benefits had been authorized to be paid.

DIFFERENCES IN EMPLOYEE PROTECTION PROGRAMS

Although these special assistance programs have common objectives, they do not have consistent eligibility requirements, benefits, or benefit periods.

Different eligibility requirements

The basic difference in eligibility requirements between the regular unemployment insurance program and the special assistance programs is that the regular program applies to all workers covered by unemployment insurance whereas the special programs cover only workers in specific industries. However, it should be noted that the regular unemployment insurance program does not have uniform standards to determine who is eligible for benefits. As a result, the States have developed diverse and often complex procedures and formulas for determining who is eligible. Some States pay benefits to unemployed persons

in certain circumstances--for example, persons who quit their jobs voluntarily or who are fired for misconduct--while other States do not.

Under the Trade Act, eligibility to receive worker adjustment assistance is determined by State employment security agencies after the Secretary of Labor has certified that a group of workers has been adversely affected by imports.

To be eligible for training, employment services, and job search allowances the workers need only be covered by a certification. However, to be eligible for weekly cash payments and relocation allowances, certified workers must have worked in import affected employment with a single employer for 26 of their last 52 weeks at wages of \$30 or more a week.

Eligibility for Redwood program assistance is determined in two steps. First, the Secretary of Labor must determine which employers are affected by the park expansion. The legislation classifies employers into categories--woods, mill, and contract--and establishes different eligibility criteria for each.

Second, the Secretary must determine, with the help of the California Employment Development Department, whether a worker is covered by the act, and whether he or she was laid off by an affected employer.

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Workers are determined covered by the act if they have either

- seniority under a collective bargaining agreement with an affected employer as of May 31, 1977, have at least 12 months of creditable service as of March 27, 1978, and have performed work for one or more affected employers on or after January 1, 1977, or
- worked for one or more affected employers for at least 1,000 hours from January 1, 1977, through March 27, 1978, and have a continuing employment relationship with an affected employer as of March 27, 1978, or, if laid off on or after May 31, 1977, had such a relationship as of the date of layoff.

An important aspect of this legislation is that the total or partial layoff of a covered employee between May 31, 1977, and September 30, 1980, is "conclusively presumed" to be attributable to the expansion of Redwood National Park. As a result of this provision covered workers laid off from affected employers for regular maintenance, adverse weather, or other reasons unrelated to park expansion are eligible for program benefits.

An affected worker must apply for benefits no later than September 30, 1980, unless an extension is granted by the Secretary of Labor.

Under the Rail Act employers determine employee eligibility. With respect to Conrail, the Rail Act considers a protected employee to be any person, other than a corporate officer, who as of January 2, 1974, was employed by one of Conrail's predecessor bankrupt railroads and had not reached age 65.

Similar to the presumptive eligibility provision in the Redwood legislation, eligibility under the Rail Act permits the payment of benefits for reasons not related to the formation of Conrail. For example, benefits are paid even for adverse economic effects clearly resulting from other causes, such as strikes and snowstorms, totally unrelated to the reorganization.

Different level and duration
of compensation payments

Benefits under the programs include weekly or monthly cash payments and, depending on the program, severance or termination payments, relocation and job search allowances, training, and health and pension coverage guarantees. These benefits are in addition to State unemployment insurance program benefits.

Under the regular program each State sets eligibility standards and benefit amounts. Federal legislation does not mandate that unemployment compensation replace a specific percentage of lost wages. However, most States have laws that provide weekly compensation equal to 50 percent of a recipient's previous average weekly gross wage up to a maximum amount. As of January 1980 the States' maximums ranged from \$72 to \$202 per week.

States normally provide up to 26 weeks of unemployment compensation. An additional 13 weeks can be provided during periods of high unemployment under the extended benefits program, established by the Federal-State Extended Unemployment Compensation Act of 1970.

Under the special programs, the amount of monetary (weekly or monthly) benefits varies significantly among programs but all provide considerably more than benefits available under the regular program.

--Under the Trade Act, workers may receive weekly payments equivalent to 70 percent of average weekly gross wages not to exceed the national average weekly manufacturing wage.

--Under the Redwood program, affected workers are intended to receive the same level of benefits as if still fully employed.

--Under the Rail Act, workers may receive 100 percent of their annual average gross pay, not to exceed \$2,500 a month, except when adjusted to reflect general wage increases.

The benefits for each of these programs are reduced by the full amount of unemployment compensation and a percentage of earnings received during the period benefits are paid. Also, under the Redwood program benefits are reduced by amounts that would have been withheld for applicable Federal and State income taxes associated with regular wages. This reduction is made only to determine benefit amounts and does not constitute withheld taxes. Under the Rail program, however, benefits are reduced by amounts withheld for Federal and

State income taxes. Redwood benefits are to be further reduced by withheld social security contributions and Rail benefits are reduced by withheld retirement taxes.

The benefits periods under the special programs also vary significantly but exceed the 26-week benefits period under the regular program.

The benefits period under the Rail Act is longer than under the other programs. The Rail Act provides that an employee who was working for an affected employer for 5 or more years on the effective date of the law is entitled to benefits until age 65. This means that a person age 25 when the Rail Act became effective would be eligible to receive benefits for 40 years.

Under the Redwood program, individuals can receive benefits until September 30, 1984, but workers who have reached age 60 by that date may continue to receive benefits until age 65.

Under the Trade Act affected workers can receive weekly benefits for 52 weeks. Benefits are available for 26 additional weeks for (1) those workers that had reached age 60 when they became affected or (2) workers in an approved training program.

The Rail and Redwood programs also allow lump-sum severance payments in lieu of regular weekly or monthly payments.

Under the Rail Act a protected worker with 3 or more years of service as of the date of the act, may receive a separation allowance, not to exceed \$20,000, if he resigns or elects not to transfer to another part of Conrail's system requiring a change of residence. A worker with less than 3 years of service may elect to receive a termination allowance when notified of Conrail's intent to terminate his or her services. Workers who take separation or termination allowances are not entitled to any other benefits under the Rail program.

Under the Redwood program workers with 5 or more years of employment with an affected employer may elect to receive a severance payment in lieu of weekly unemployment benefits. Workers with less than 5 years employment, and workers who take early retirement are eligible for severance payments but not weekly benefits. Severance payments cannot exceed the equivalent of 72 weeks of weekly benefits. Acceptance of a severance payment terminates the right to all other benefits under the Redwood program for workers with 5 or more years employment with an affected employer. However, for workers with less than 5 years employment the acceptance of a severance payment does not terminate their right to certain other benefits such as training, and job search and relocation allowances.

Other benefit differences

In some cases, workers covered by the special programs can receive income greater than their take-home pay would have been had they still been fully employed.

For example, as pointed out in our January 15, 1980 report,^{1/} many import-affected workers, while laid off, received nearly 95 percent of their take-home pay from unemployment compensation and company-funded, union negotiated supplemental benefits. Under the Trade Act, supplemental benefits are ignored when computing the amount of weekly cash payments. Thus, workers can receive unemployment compensation, supplemental cash benefits and weekly cash payments under the Trade Act, for the same layoff period. Some workers, such as those in the auto industry, are required to repay the firm a portion of the supplemental benefits. But others, such as those in the primary metal industry, are not required to repay supplemental benefits and may receive a combination of benefits greater than their take-home pay would have been had they been working.

Another example involves the Rail and Redwood programs. Under these programs, weekly or monthly monetary benefits are reduced by the full amount of earnings within the affected industries, but are reduced by only 50-percent of earnings

^{1/} Restricting Trade Act Benefits To Import-Affected Workers Who Cannot Find A Job Can Save Millions (HRD-80-11, Jan. 15, 1980).

from outside the affected industries. Workers in the latter situation, therefore can receive combined earnings and benefits at a higher level than their wages prior to layoff.

In addition to monetary payments, employees covered by the special programs are eligible for other benefits not provided under the regular unemployment program.

For example, relocation allowances are available under each of the three special programs to workers that are required to move in order to find suitable employment. Further, the Trade Act and the Redwood legislation provide for job search allowances and training to certain affected workers. Also, the Rail and Redwood programs guarantee affected workers the same level of health and pension coverage that they had with their last affected employers.

WORK DISINCENTIVES

Our August 1979 report 1/ on unemployment insurance discussed work disincentives. The additional benefits provided by the special assistance programs would appear to further decrease financial incentives for many persons to work.

Our interviews with 3,000 persons receiving regular unemployment compensation showed that this compensation, alone or

1/ Unemployment Insurance--Inequities and Work Disincentives in the Current System (HRD-79-79, Aug. 28, 1979).

when combined with other income, replaced an average of 64 percent of their net income before unemployment. About 25 percent of these persons replaced over 75 percent of their net income, and about 7 percent replaced over 100 percent.

Persons who replaced over 75 percent of their net income

- collected compensation over 2 weeks longer than those who replaced 75 percent or less,
- were more apt to collect benefits until their benefit period expired,
- were nearly twice as likely to have quit their most recent jobs, and
- generally had held jobs similar to ones listed by the Employment Service and local newspapers.

Nearly 30 percent of those who replaced over 75 percent of their net income told us they had only a limited financial need to work. Thus, some persons receiving unemployment compensation are not financially motivated to work.

Social and economic changes have occurred since 1935 which appear to have reduced recipients' financial incentives to work. For example, increases in Federal, State, and local taxes and Social Security taxes since the 1930's have reduced the percentage of take home pay and resulted in a significant gap between gross and net income. Because unemployment compensation is based on gross income, the increased taxes have resulted in unemployment compensation replacing a higher percentage of take-home pay.

Also, because States have no uniform methodology for determining the amount of unemployment compensation a recipient is entitled to receive, recipients in the same circumstances receive different compensation amounts and therefore can have varying financial incentives to seek work.

In our October 1978 report 1/ on Trade Act worker adjustment assistance in five New England States, we pointed out that State employment security officials believed that the amount of Trade Act benefits reduced and, in some cases, eliminated any incentive for recipients to actively seek new employment or to use available employment services while receiving payments. This was especially evident where unemployment was high or where wages for available job openings were considerably lower than what the workers were previously paid. In the latter case, compensation payments were usually more than the wages for full-time jobs.

In our January 1980 report which discussed worker adjustment assistance on a nationwide basis, we reported that employment security officials in 32 of 38 States and 121 of 140 local offices told us that weekly cash payments create at least some disincentive for import-affected workers to return to work.

1/ Worker Adjustment Assistance Under The Trade Act of 1974 to New England Workers Has Been Primarily Income Maintenance (HRD-78-153, Oct. 31, 1978).

Redwood program benefits appear to reduce incentives to work and cause workers to seek layoffs out-of-order of seniority. Program officials told us that instead of using seniority rights to retain their jobs, employees covered by union contracts appear to be using their seniority to opt for program benefits.

Program administrators are concerned about out-of-order layoffs because of the impact on program costs. Since senior employees generally have higher earnings and more years of service, their weekly benefit or lump sum severance pay will be higher. In addition, employees who reach age 60 by September 30, 1984, will be eligible for benefits until age 65.

Several Redwood program officials believe that employees' work incentives have been reduced because of the generous benefits--laid-off employees receive the same level of income and benefits they would receive if they were still fully employed. These officials contend that traditional work values and labor protection measures have been reversed.

Employers generally agree that the program's generous benefits have reduced employees' incentive to work. Further, employers said that employees viewed them as uncooperative for not allowing workers to be laid off.

We contacted seven affected employers. All but one cited examples of employees requesting to be laid off. One employer

said that 46 out of 47 employees age 55 or older had requested to be laid off because of generous program benefits.

On the other hand, union representatives and employees we contacted recognized that some employees may be influenced by the program's monetary benefits, but they generally denied that the benefits had reduced employees' incentives to work.

The Rail program assures full pay for some laid-off employees until retirement age. Conrail's need for employees with certain skills has been substantially reduced. However, Conrail and other employers are prevented by law from transferring union employees having unneeded skills to vacant jobs requiring other skills. One such situation exists at Conrail where 95 of 103 marine employees were declared surplus between April 1976 and March 1978. Since they could not be required to transfer to nonmarine jobs, they can continue to collect their full pay until retirement. We identified 50 of these employees as having collected more than \$1.8 million in payments through 1978. Conrail estimates that all 95 employees will collect benefits totaling almost \$23 million through the year 2010.

ADMINISTRATIVE PROBLEMS AND DIFFERENCES

Administering special assistance programs is difficult and cumbersome. Under the Trade Act and Redwood programs, it is often difficult to determine that an employer has been adversely affected and to identify affected workers. The

delivery of assistance to workers is complicated because of the complex benefit determination process required by law and the need to obtain employment data from employers.

Trade Act's Worker Adjustment Assistance Program

Eligibility to receive worker adjustment assistance under the Trade Act must be determined in two steps. First, a group of workers, their union, or an otherwise authorized representative must file a petition with the Secretary of Labor requesting certification of eligibility to apply for assistance. To certify a group of workers as eligible for assistance, the Secretary must determine that

- a significant number of workers in a firm or an appropriate subdivision of the firm have become or are threatened with becoming totally or partially separated,
- the sales and/or production of such firm or subdivision have decreased, and
- increased imports of like or directly competitive articles contributed importantly to such separations and a decline in sales or production.

Our work has shown that it is often difficult to determine that import competition was the major cause for a firm's financial problems and subsequent layoff of workers. Job losses frequently arise from multiple causes such as domestic recession, poor management, obsolete or inadequate production facilities, change in demand for the product line, or from imports.

The second step occurs when certified workers submit applications for cash benefits and employment services to State

employment security agencies responsible for delivering benefits.

We have found that State employment security agencies are slow in delivering benefits. To assure that only eligible workers receive benefits and that cash payments are the right amount, information must be obtained from employers for each worker who applies for benefits. The process is further complicated when employees work on multiple product lines, only one of which may be import impacted.

After this information is obtained, States must use a complicated and lengthy process to compute weekly cash payment amounts. This process involves identifying the layoff period, computing the maximum entitlement, and then reducing the entitlement by unemployment compensation received during the layoff period. A number of other factors must also be considered.

In our recent nationwide assessment of the worker adjustment assistance program we found that, based upon a statistical sample, the import-affected workers in our universe waited an average of 488 days after layoff before receiving their first cash payment. There were delays at each stage: workers took a long time to file petitions (221 days), Labor took a long time to certify them (112 days), workers were slow to apply for benefits at local agencies (87 days), and States caused further delays while determining eligibility and payment amounts (68 days).

Overall, 71 percent of the estimated 242,000 workers in our universe had returned to work by the time their first check arrived. Rather than receiving weekly cash payments during their layoff, these workers received a lump-sum payment after returning to work.

Although Labor has made some improvements in the process, cash payments generally will not reach workers during the early weeks of their layoff because of the time needed to file and certify petitions and process applications.

Redwood Employee Protection Program

In our review of the Redwood program, we found similar administrative problems. Assistance under this program is provided through a two-step process similar to the Trade Act program.

Labor must certify that employers have been unfavorably affected by park expansion. However, Labor has not interpreted and applied legislative criteria which would exclude employers' operations not affected by park expansion while assuring that all adversely impacted operations are included. Accordingly, Labor has certified entire corporate divisions, of which timber harvesting operations in the park's expansion area was only one portion. Consequently, individuals who were not affected by park expansion have become eligible to receive benefits.

The Redwood program's monetary benefits are also difficult and burdensome to administer because of complex legislative requirements. A weekly benefit amount must be computed through a complicated process. Employment information from 1973 forward is necessary. The State employment security agency uses a series of forms to request detailed employment and wage information from workers and employers. Most employers we contacted during our review complained about the time and money spent providing this information to the State employment security agency.

WHAT NEEDS TO BE DONE

We recognize that providing special assistance to certain groups impacted by Federal policies is a complex and controversial question. Based on our recent work on special assistance programs now operating, we believe that some changes are needed.

We recommend that a uniform approach be used to provide special assistance to groups that Congress determines are adversely affected by Federal policies. We believe that the approach outlined in our January 15, 1980, report on the Trade Act's worker adjustment assistance program would be desirable for providing special assistance to any group. This approach would require that import-affected workers exhaust regular unemployment compensation benefits before receiving up to 52 weeks of additional cash benefits. To minimize the possibility that the additional

weeks of income protection under this approach would provide a disincentive to employment, we recommended that the additional benefits be continued at an amount comparable to that received under unemployment compensation, rather than the higher amount now allowed under the Trade Act.

Implementation of this approach would help eliminate some of the administrative costs and problems associated with the delivery of benefits to import-affected workers.

In both our April 1978 1/ and August 1979 reports on unemployment insurance, we made a number of recommendations for improving the program. Foremost among these is the need for the Congress to establish uniform eligibility standards and methods for determining compensation amounts so that all recipients are treated equally. We believe that actions toward implementing this recommendation should be taken as soon as possible.

1/ Unemployment Insurance--Need To Reduce Unequal Treatment of Claimants And Improve Benefit Payment Controls And Tax Collections (HRD-78-1, April 5, 1978).