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TRADE AND GLOBALIZATION ASSISTANCE ACT OF 2007

OCTOBER 29, 2007.—Ordered to be printed

Mr. RANGEL, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3920]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3920) to amend the Trade Act of 1974 to reauthorize trade adjustment assistance, to extend trade adjustment assistance to service workers and firms, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Trade and Globalization Assistance Act of 2007".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Subtitle A—Trade Adjustment Assistance for Service Sector Workers; Expansion of Covered Shifts in Production; Expansion of Downstream Secondary Worker Eligibility

Sec. 101. Extension of trade adjustment assistance to services sector; shifts in production.
Sec. 102. Determinations by Secretary of Labor.
Sec. 103. Monitoring and reporting relating to service sector.

Subtitle B—Industry-Wide Trade Adjustment Assistance

Sec. 111. Industry-wide determinations.
Sec. 112. Notifications regarding affirmative determinations and safeguards.
Sec. 113. Notification to Secretary of Commerce.
Sec. 114. Restriction on eligibility for program benefits.

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Subtitle C—Program Benefits

Sec. 121. Qualifying requirements for workers.
Sec. 122. Weekly amounts.
Sec. 123. Limitations on trade readjustment allowances; allowances for extended training and breaks in training.
Sec. 124. Special rules for calculation of eligibility period.
Sec. 125. Application of State laws and regulations on good cause for waiver of time limits or late filing of claims.
Sec. 126. Employment and case management services.
Sec. 127. Training.
Sec. 128. Prerequisite education; approved training programs.
Sec. 129. Eligibility for unemployment insurance and program benefits while in training.
Sec. 130. Administrative expenses and employment and case management services.
Sec. 131. Job search and relocation allowances.

Subtitle D—Health Care Provisions

Sec. 141. Modifications relating health insurance assistance for certain TAA and PBGC pension recipients.

Subtitle E—Wage Insurance

Sec. 151. Reemployment trade adjustment assistance program for older workers.

Subtitle F—Other Matters

Sec. 161. Agreements with States.
Sec. 162. Fraud and recovery of overpayments.
Sec. 163. Technical amendments.
Sec. 164. Office of Trade Adjustment Assistance; Deputy Assistant Secretary for Trade Adjustment Assistance.
Sec. 165. Collection of data and reports; information to workers.
Sec. 166. Extension of TAA program.
Sec. 167. Judicial review.
Sec. 168. Liberal construction of certification of workers and firms.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 201. Trade adjustment assistance for firms.
Sec. 202. Extension of authorization of trade adjustment assistance for firms.
Sec. 203. Industry-wide programs for the development of new services.
Sec. 204. Demonstration project on strategic trade transformation assistance.

TITLE III—UNEMPLOYMENT INSURANCE

Sec. 301. Short title.
Sec. 302. Special transfers to State accounts in the Unemployment Trust Fund.
Sec. 303. Extension of FUTA tax.
Sec. 304. Safety Net Review Commission.

TITLE IV—MANUFACTURING REDEVELOPMENT ZONES

Sec. 401. Manufacturing redevelopment zones.
Sec. 402. Delay in application of worldwide interest allocation.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since January 2001, the United States economy has lost nearly 3 million jobs in the manufacturing sector alone.

(2) Today, over 7.1 million people in the United States are unemployed, and nearly 1.2 million of those individuals have been unemployed for 6 months or longer.

(3) While the United States manufacturing sector has been the hardest hit by increased unemployment, the United States service sector has also seen declines as jobs have moved to low-cost labor markets, such as China, India, and the Philippines.

(4) Promoting the economic growth and competitiveness of the United States requires—

(A) opening substantial new markets for United States goods, services, and farm products;

(B) building a strong framework of rules for international trade to level the playing field for United States workers and businesses in all sectors of the economy; and

(C) helping those affected by globalization overcome its challenges and succeed.

(5) Congress created the trade adjustment assistance program in 1962 to provide United States workers who lose their jobs because of foreign competition with government-funded training and associated income support to enable such workers to transition to new, good-paying jobs.

(6) Unfortunately, the trade adjustment assistance program has not kept pace with globalization and it is failing to ensure that all workers adversely affected by trade receive the assistance they need and deserve.

(7) Workers in the service sector, who make up approximately 80 percent of the United States workforce, are ineligible for trade adjustment assistance.

(8) Inadequate funding for training leaves many dislocated workers without access to the retraining they need to find good-paying jobs.

(9) Unnecessary, unduly burdensome, and confusing program eligibility rules prevent workers from gaining access to benefits for which they are eligible.

(10) The health coverage tax credit suffers from fundamental flaws and, as a result, the credit is not being used by the vast majority of people who are eligible for it, despite a clear need for access to affordable health care.

(11) To meet the challenges posed by globalization and to preserve the critical role that United States workers play in promoting the strength and prosperity of the United States, the trade adjustment assistance program must be reformed.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Subtitle A—Trade Adjustment Assistance for Service Sector Workers; Expansion of Covered Shifts in Production; Expansion of Downstream Secondary Worker Eligibility

SEC. 101. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE TO SERVICES SECTOR; SHIFTS IN PRODUCTION.

(a) PETITIONS.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)(1)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "Secretary" and inserting "Secretary of Labor"; and

(ii) by striking "or subdivision" and inserting (or subdivision) or public agency (or subdivision); and

(B) in subparagraph (A), by striking "firm)" and inserting "firm, and workers in a service sector firm or subdivision of a service sector firm, or public agency)"; and

(2) in paragraph (3), by inserting "and on the Website of the Department of Labor" after "Federal Register".

(b) GROUP ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Subsection (a) of section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(A) in the matter preceding paragraph (1), by striking "(including workers in any agricultural firm or subdivision of an agricultural firm)" and inserting "(other than workers in a public agency)";

(B) in paragraph (2)—

(i) in subparagraph (A)(ii), by striking "like or directly competitive with articles produced" and inserting "or services like or directly competitive with articles produced or services provided"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) (i) there has been a shift, by such workers' firm or subdivision to a foreign country, of production of articles, or in provision of services, like or directly competitive with articles that are produced, or services that are provided, by such firm or subdivision; or

"(ii) such workers' firm or subdivision has obtained or is likely to obtain articles or services described in clause (i) from a foreign country.".

(2) WORKERS IN PUBLIC AGENCIES.—Such section is further amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following:

"(b) ADVERSELY AFFECTED WORKERS IN PUBLIC AGENCIES.— A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

"(1) a significant number or proportion of the workers in the public agency, or an appropriate subdivision of the public agency, have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2) the public agency or subdivision has obtained or is likely to obtain from a foreign country services that would otherwise be provided by such agency or subdivision.".

(3) ADVERSELY AFFECTED SECONDARY WORKERS.—Subsection (c) of such section (as redesignated by paragraph (2)(A) of this subsection) is amended—

(A) in the matter preceding paragraph (1), by striking "agricultural firm)" and inserting "agricultural firm, and workers in a service sector firm or subdivision of a service sector firm)";

(B) in paragraph (2)—

(i) by inserting "or service" after "related to the article"; and

(ii) by striking "(c)(3)" and inserting "(d)(3)"; and

(C) in paragraph (3)(A), by striking "it supplied to the firm (or subdivision)" and inserting "or services it supplied to the firm (or subdivision)".

(4) DEFINITIONS AND ELIGIBILITY.—Subsection (d) of such section (as redesignated by paragraph (2)(A) of this subsection) is amended—

(A) by striking "(d) For purposes of this section—" and inserting "(d) DEFINITIONS AND ELIGIBILITY.—For purposes of this section:"

(B) in paragraph (3), to read as follows:

"(3) DOWNSTREAM PRODUCER.—The term 'downstream producer' means a firm that performs additional, value-added production processes or services for a firm or subdivision, including a firm that performs final assembly, finishing, testing, packaging, or maintenance or transportation services directly for another firm (or subdivision), for articles or services that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm (or subdivision).";

(C) in paragraph (4)—

(i) by striking "for articles" and inserting ", or services, used in the production of articles or in the provision of services, as the case may be,"; and

(ii) by inserting "(or subdivision)" after "such other firm"; and

(D) by adding at the end the following:

"(5) FIRMS IDENTIFIED BY ITC.—A petition filed under section 221 covering a group of workers from a firm or appropriate subdivision of a firm meets the requirements of subsection (a) if the firm is identified by the International Trade Commission under subsection (c), (d), or (e) of section 224.".

(5) BASIS FOR SECRETARY'S DETERMINATIONS.—Such section is further amended by adding at the end the following:

"(e) BASIS FOR SECRETARY'S DETERMINATIONS.—

"(1) INCREASED IMPORTS OF SERVICES.—For purposes of subsection (a)(2)(A)(ii), the Secretary may determine that increased imports of like or directly competitive services exist if the customers of the workers' firm or subdivision accounting for not less than 20 percent of the sales of the workers' firm or subdivision (as the case may be) certify to the Secretary that such customers are obtaining such services from a foreign country.

"(2) SHIFT IN PRODUCTION; OBTAINING ARTICLES OR SERVICES ABROAD.—For purposes of subsections (a)(2)(B) and (b)(2), the Secretary may determine that there has been a shift in production of articles or provision of services, or that a workers' firm or public agency, or subdivision thereof, has obtained or is likely to obtain like or directly competitive articles or services from a foreign country, based on a certification thereof from the workers' firm, public agency, or subdivision (as the case may be).

"(3) PROCESS AND METHODS FOR OBTAINING CERTIFICATIONS.—

"(A) REQUEST BY PETITIONER.—If requested by the petitioner, the Secretary shall obtain the certifications under paragraphs (1) and (2) in such manner as the Secretary determines is appropriate, including by issuing subpoenas under section 249 when necessary.

"(B) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary may not release information obtained under subparagraph (A) that the Secretary considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Secretary, or such party subsequently consents to the release of the information. Nothing in this subparagraph shall be construed to prohibit a court from requiring the submission of such confidential business information to the court in camera.".

(c) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) in the matter preceding paragraph (1), by striking "chapter—" and inserting "chapter:";

(2) in paragraph (1)—

(A) by inserting ", or employment in a public agency or appropriate subdivision of a public agency," after "of a firm"; and

(B) by striking "such firm or subdivision" inserting "such firm (or subdivision) or public agency (or subdivision)";

(3) in paragraph (2), by striking "employment—" and all that follows and inserting "employment has been totally or partially separated from such employment.";

(4) by redesignating paragraphs (8) through (17) as paragraphs (10) through (19), respectively; and

(5) by inserting after paragraph (6) the following:

"(7) The term 'public agency' means a department or agency of a State or local government or of the Federal Government.

"(8) The term 'service sector firm' means an entity engaged in the business of providing services.

"(9) Except as otherwise provided, the term 'Secretary' means the Secretary of Labor.".

SEC. 102. DETERMINATIONS BY SECRETARY OF LABOR.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended—

(1) in subsection (b), by striking "before his application" and all that follows and inserting "before the worker's application under section 231 occurred more than one year before the date of the petition on which such certification was granted.";

(2) in subsection (c), by striking "together with his reasons" and inserting "and on the Website of the Department of Labor, together with the Secretary's reasons"; and

(3) in subsection (d), by striking "together with his reasons" and inserting "and on the Website of the Department of Labor, together with the Secretary's reasons".

SEC. 103. MONITORING AND REPORTING RELATING TO SERVICE SECTOR.

(a) IN GENERAL.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended—

(1) in the heading, by striking "system" and inserting "and data collection";

(2) in the first sentence—

(A) by striking "The Secretary" and inserting "(a) MONITORING PROGRAMS.—The Secretary";

(B) by inserting "and services" after "imports of articles";

(C) by inserting "and domestic provision of services" after "domestic production";

(D) by inserting "or providing services" after "producing articles"; and

(E) by inserting ", or provision of services," after "changes in production"; and

(3) by adding at the end the following:

"(b) COLLECTION OF DATA AND REPORTS ON SERVICE SECTOR.—

"(1) SECRETARY OF LABOR.—Not later than 90 days after the date of the enactment of the Trade and Globalization Assistance Act of 2007, the Secretary of Labor shall implement a system to collect data on adversely affected workers employed in the service sector that includes the number of workers by State, industry, and cause of dislocation of each worker.

"(2) SECRETARY OF COMMERCE.—Not later than 1 year after such date of enactment, the Secretary of Commerce shall, in consultation with the Secretary of Labor, conduct a study and report to Congress on ways to improve the timeliness and coverage of data on trade in services, including methods to identify increased imports due to the relocation of United States firms to foreign countries, and increased imports due to United States firms obtaining services from firms in foreign countries.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by striking the item relating to section 282 and inserting the following:

"Sec. 282. Trade monitoring and data collection.".

Subtitle B—Industry-Wide Trade Adjustment Assistance

SEC. 111. INDUSTRY-WIDE DETERMINATIONS.

(a) IN GENERAL.—Subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by adding after section 223 the following:

"SEC. 223A. INDUSTRY-WIDE DETERMINATIONS.

"(a) INVESTIGATION.—Upon the request of the President or the United States Trade Representative, or the resolution of either the Committee on Finance of the

Senate or the Committee on Ways and Means of the House of Representatives, with respect to a domestic industry, or if the Secretary certifies groups of workers in a domestic industry under section 223(a) pursuant to 3 petitions within a 180-day period, the Secretary shall promptly initiate an investigation under this chapter to determine the eligibility for adjustment assistance of—

"(1) all workers in that domestic industry; or

"(2) all workers in that domestic industry in a specific geographic region.

"(b) DETERMINATION REGARDING INDUSTRY-WIDE CERTIFICATION.—

"(1) DETERMINATION.—The Secretary shall, not later than 60 days after receiving a request or resolution described in subsection (a) with respect to a domestic industry, or making the third certification of workers in a domestic industry described in subsection (a), as the case may be—

"(A) determine whether all adversely affected workers in that domestic industry are eligible to apply for assistance under this subchapter, in accordance with the criteria established under subsection (e); or

"(B) determine whether all adversely affected workers in that domestic industry in a specific geographic region are eligible to apply for assistance under this subchapter, in accordance with the criteria established under subsection (e).

"(c) IDENTIFICATION AND CERTIFICATION.—

"(1) AFFIRMATIVE DETERMINATION.—

"(A) IN GENERAL.—Upon making an affirmative determination under subsection (b), the Secretary shall—

"(i) identify all firms operating within the domestic industry described in paragraph (1) or (2) or subsection (b) that are covered by the determination; and

"(ii) certify all workers of such firms as a group of workers eligible to apply for assistance under this subchapter, without any other determination of whether such group meets the requirements of section 222.

"(B) OTHER REQUIREMENTS.—

"(i) IN GENERAL.—Each certification under subparagraph (A)(ii) shall specify the date on which the total or partial separation began or threatened to begin, except that—

"(I) with respect to a request or a resolution under subsection (a), such date may not be a date that precedes one year before the date on which the Secretary receives the request or resolution, as the case may be; and

"(II) with respect to the third certification of workers in a domestic industry described in subsection (a), such date may not be a date that precedes one year before the date on which the Secretary certifies the 3d such petition.

"(ii) INAPPLICABILITY.—A certification under subparagraph (A)(ii) shall not apply to any worker whose last total or partial separation from the firm occurred before the applicable date specified in clause (i).

"(iii) TRAINING BEFORE SEPARATION.—Any worker covered by a certification under subparagraph (A)(ii) shall be deemed to be an adversely affected worker for purposes of receiving training under section 236, without regard to whether the worker has been totally or partially separated from employment.

"(2) NEGATIVE DETERMINATION.—If the Secretary makes a negative determination under subsection (b), the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of the reasons for the Secretary's determination.

"(3) PUBLICATION.—Upon making a determination under subsection (b), the Secretary shall promptly publish a summary of the determination in the Federal Register and on the Website of the Department of Labor, together with the reasons for making such determination.

"(4) TERMINATION.—Whenever the Secretary determines that a certification under paragraph (1) is no longer warranted, the Secretary shall terminate the certification and promptly have notice of the termination published in the Federal Register and on the Website of the Department of Labor, together with the reasons for making such determination under this paragraph. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

"(d) OUTREACH.—Upon making a certification under subsection (c)(1) of eligibility for adjustment assistance under this chapter of a group of workers or all workers in a domestic industry, the Secretary shall notify each Governor of a State in which the workers are located of the certification.

"(e) REGULATIONS.—The Secretary shall, not later than 1 year after the date of the enactment of the Trade and Globalization Assistance Act of 2007, issue regulations for making determinations under this section, including criteria for making such determinations. The Secretary shall develop such regulations in consultation with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and the Secretary shall submit such regulations to each such committee at least 60 days before the regulations go into effect.

"(f) DOMESTIC INDUSTRY DEFINED.—In this section, the term 'domestic industry' means an industry in the United States, as that industry is defined by the North American Industry Classification System.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 223 the following:

"Sec. 223A. Industry-wide determinations.".

(c) CONFORMING AMENDMENTS.—Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended—

(1) in section 225—

(A) in subsection (a), in the last sentence by inserting "or 223A" after "223"; and

(B) in subsection (b)—

(i) in paragraph (1), by striking "subchapter A of this chapter" and inserting "this subchapter"; and

(ii) in paragraph (2), by striking "subchapter A" and inserting "this subchapter"; and

(2) in section 231—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "more than 60 days" and all that follows through "section 221" and inserting "on or after the date of such certification"; and

(ii) in paragraph (1)—

(I) in subparagraph (B), by inserting "or 223A (as the case may be)" after "223"; and

(II) in subparagraph (C), by inserting "or 223A(c)(4), as the case may be" after "223(d)"; and

(B) in subsection (b)—

(i) by striking paragraph (2); and

(ii) in paragraph (1)—

(I) by striking "(1)";

(II) by redesignating subparagraphs (A) and (B) as paragraph (1) and (2), respectively;

(III) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(IV) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

SEC. 112. NOTIFICATIONS REGARDING AFFIRMATIVE DETERMINATIONS AND SAFEGUARDS.

(a) IN GENERAL.—Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended—

(1) in the heading, by striking "study by secretary of labor when international trade commission begins investigation" and inserting "study and notifications regarding trade remedy determinations";

(2) in subsection (a), by striking "Whenever" and inserting "STUDY OF DOMESTIC INDUSTRY.—Whenever";

(3) in subsection (b)—

(A) by striking "The report" and inserting "REPORT BY THE SECRETARY.—The report";

(B) by striking "his report" and inserting "the Secretary's report"; and

(C) by inserting "and on the Website of the Department of Labor" after "Federal Register"; and

(4) by adding at the end the following:

"(c) NOTIFICATIONS REGARDING AFFIRMATIVE SAFEGUARD DETERMINATIONS UNDER SECTION 202.—Upon issuing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, under section 202, the Commission shall notify the Secretary and the Secretary of Commerce of that finding and the identity of the firms which comprise the domestic industry.

"(d) NOTIFICATIONS REGARDING AFFIRMATIVE DETERMINATIONS UNDER SECTION 421.—Upon issuing an affirmative determination of market disruption, or the threat thereof, under section 421, the Commission shall notify the Secretary and the Secretary of Commerce of that determination and the identity of the firms which comprise the affected domestic industry.

"(e) NOTIFICATIONS REGARDING AFFIRMATIVE DETERMINATIONS UNDER TARIFF ACT OF 1930.—Upon issuing a final affirmative determination of injury, or the threat thereof, under section 705 or section 735 of the Tariff Act of 1930 (19 U.S.C. 1671d and 1673d), the Commission shall notify the Secretary and the Secretary of Commerce of that determination and the identity of the firms which comprise the affected domestic industry.

"(f) NOTIFICATION OF INDUSTRY AND WORKER REPRESENTATIVES.—Whenever the Commission makes a notification under subsection (c), (d), or (e)—

"(1) the Secretary shall—

"(A) notify the firms identified by the Commission as comprising the domestic industry affected, and any certified or recognized union or other duly authorized representatives of the workers in such industry, of the allowances, training, employment services, and other benefits available under this chapter, and the procedures under this chapter for filing petitions and applying for benefits;

"(B) notify the Governor of each State in which one or more firms described in subparagraph (A) are located of the Commission's determination and the identity of the firms; and

"(C) provide the necessary assistance to employers, groups of workers, and any certified or recognized union or other duly authorized representatives of such workers to file petitions under section 221; and

"(2) the Secretary of Commerce shall—

"(A) notify the firms identified by the Commission as comprising the domestic industry affected of the benefits under chapter 3 and the procedures under such chapter for filing petitions and applying for benefits; and

"(B) provide the necessary assistance to firms to file petitions under section 251.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by striking the item relating to section 224 and inserting the following:

"Sec. 224. Study and notifications regarding trade remedy determinations.".

SEC. 113. NOTIFICATION TO SECRETARY OF COMMERCE.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended by adding at the end the following:

"(c) Upon issuing a certification under section 223 or 223A, the Secretary shall notify the Secretary of Commerce of the identify of the firm or firms that are covered by the certification.".

SEC. 114. RESTRICTION ON ELIGIBILITY FOR PROGRAM BENEFITS.

(a) IN GENERAL.—Subchapter A of chapter 2 of title II of the trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by adding at the end the following new section:

"SEC. 226. RESTRICTION ON ELIGIBILITY FOR PROGRAM BENEFITS.

"No benefit allowances, training, or other employment services may be provided under this chapter to a worker who is an alien unless the alien is an individual lawfully admitted for permanent residence to the United States, is lawfully present in the United States, or is permanently residing in the United States under color of law.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by adding after the item relating to section 225 the following:

"226. Restriction on eligibility for program benefits.".

Subtitle C—Program Benefits

SEC. 121. QUALIFYING REQUIREMENTS FOR WORKERS.

(a) IN GENERAL.—Subsection (a)(5)(A)(ii) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(1) by striking subclauses (I) and (II) and inserting the following:

"(I) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs after the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after such total separation,

"(II) in the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs before the date on which the Secretary issues

a certification covering the worker, the last day of the 26th week after the date of such certification,"; and

(2) in subclause (III)—

(A) by striking "later of the dates specified in subclause (I) or (II)" and inserting "date specified in subclause (I) or (II), as the case may be"; and

(B) by striking "or" at the end;

(3) by redesignating subclause (IV) as subclause (V); and

(4) by inserting after subclause (III) the following:

"(IV) the last day of such period that the Secretary determines appropriate, if the failure to enroll is due to the failure to provide the worker with timely information regarding the date specified in subclause (I) or (II), as the case may be, or".

(b) WAIVERS OF TRAINING REQUIREMENTS.—Subsection (c) of such section 231 is amended—

(1) in paragraph (1)(B)—

(A) by striking "The worker possesses" and inserting

"(i) IN GENERAL.—The worker possesses";

(B) by moving the remaining text 2 ems to the right; and

(C) by adding at the end the following:

"(ii) MARKETABLE SKILLS DEFINED.—For purposes of clause (i), the term 'marketable skills' may include the possession of a postgraduate degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965) or equivalent foreign institution, or the possession of an equivalent postgraduate certification in a specialized field."; and

(2) in paragraph (3)—

(A) in subparagraph (A), by striking "may authorize" and inserting "shall authorize";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) DURATION OF WAIVERS.—A waiver issued under paragraph (1) by a cooperating State shall be effective for not more than 3 months after the date on which the waiver is issued, except that the State, upon reviewing the waiver, may extend the waiver for an additional period of not more than 3 months if the State determines that the waiver should be maintained.".

(c) DETERMINATIONS OF ELIGIBILITY BY STATE EMPLOYEES APPOINTED ON MERIT BASIS.—Such section 231 is further amended by adding at the end the following:

"(d) DETERMINATIONS OF ELIGIBILITY BY STATE EMPLOYEES APPOINTED ON MERIT BASIS.—All determinations of eligibility for trade readjustment allowances under this part shall be made by employees of the State who are appointed on a merit basis.".

(d) CONFORMING AMENDMENT.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by striking subsection (b) and redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

SEC. 122. WEEKLY AMOUNTS.

(a) IN GENERAL.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) in subsection (a)—

(A) by striking "subsections (b) and (c)" and inserting "subsections (b), (c), and (d)";

(B) by striking "total unemployment" the first place it appears and inserting "unemployment"; and

(C) in paragraph (2), by adding at the end before the period the following: ", except that in the case of an adversely affected worker who is participating in full-time training under this chapter, such income shall not include earnings from work for such week that are equal to or less than the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B))";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding section 231(a)(3)(B), if an adversely affected worker who is participating in training qualifies for unemployment insurance under State law, based in whole or in part upon part-time or short-term employment following approval of the worker's initial trade readjustment allowance application under section

231(a), then for any week for which unemployment insurance is payable and for which the worker would otherwise be entitled to a trade readjustment allowance based upon the certification under section 223, the worker shall, in addition to any such unemployment insurance, be paid a trade readjustment allowance in the amount described in paragraph (2).

"(2) The trade readjustment allowance payable under paragraph (1) shall be equal to the weekly benefit amount of the unemployment insurance upon which the worker's trade readjustment allowance was initially determined under subsection (a), reduced by—

"(A) the amount of the unemployment insurance benefit payable to such worker for that week of unemployment for which a trade readjustment allowance is payable under paragraph (1); and

"(B) the amounts described in paragraphs (1) and (2) of subsection (a).".

(b) CONFORMING AMENDMENTS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) in subsection (a)(1), by striking "section 232(a)" and inserting "subsections (a) and (b) of section 232"; and

(2) in subsection (c), by striking "section 232(b)" and inserting "section 232(c)".

SEC. 123. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES; ALLOWANCES FOR EXTENDED TRAINING AND BREAKS IN TRAINING.

Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting "under paragraph (1)" after "trade readjustment allowance";

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "52 additional weeks" and inserting "78 additional weeks"; and

(ii) by striking "52-week" and inserting "91-week"; and

(B) in the matter following subparagraph (B), by striking "52-week" and inserting "91-week".

SEC. 124. SPECIAL RULES FOR CALCULATION OF ELIGIBILITY PERIOD.

Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

"(g) SPECIAL RULE FOR CALCULATING SEPARATION.—Notwithstanding any other provision of this chapter, any period during which a judicial or administrative appeal is pending with respect to the denial by the Secretary of a petition under section 223 shall not be counted for purposes of calculating the period of separation under subsection (a)(2) or for purposes of calculating time periods specified in section 231(a)(5)(A).

"(h) SPECIAL RULE FOR JUSTIFIABLE CAUSE.—The Secretary may extend the periods during which trade readjustment allowances are payable to an adversely affected worker under paragraphs (2) and (3) of subsection (a) and under subsection (f) (but not the maximum amounts of such allowances that are payable under this section), if the Secretary determines that there is justifiable cause for such an extension, such as the failure to provide the worker with timely information, delays in certification due to administrative reconsideration or judicial review, or justifiable breaks in training that exceed the period allowable under subsection (e).".

SEC. 125. APPLICATION OF STATE LAWS AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.

Section 234 of the Trade Act of 1974 (19 U.S.C. 2294) is amended—

(1) by striking "Except where inconsistent" and inserting "(a) IN GENERAL.—Except where inconsistent"; and

(2) by adding at the end the following:

"(b) STATE LAWS AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.—Any law or regulation of a cooperating State under section 239 that allows for a waiver for good cause of any time limit, including a waiver for good cause to allow the late filing of any claim, for trade readjustment allowances or other adjustment assistance under this chapter shall, in the administration of the program by the State under this chapter, apply to the applicable time limitation referred to or specified in this chapter or any regulation prescribed to carry out this chapter.".

SEC. 126. EMPLOYMENT AND CASE MANAGEMENT SERVICES.

(a) IN GENERAL.—Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended to read as follows:

"SEC. 235. EMPLOYMENT AND CASE MANAGEMENT SERVICES.

"The Secretary shall provide, directly or through agreements with States under section 239, to adversely affected workers covered by a certification under subchapter A of this chapter the following employment and case management services:

"(1) Comprehensive and specialized assessment of skill levels and service needs, including through—

"(A) diagnostic testing and use of other assessment tools; and

"(B) in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

"(2) Development of an individual employment plan to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.

"(3) Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.

"(4) Information on how to apply for financial aid, including referring workers to educational opportunity centers under section 402F of the Higher Education Act of 1965, where applicable, and notifying workers that the workers may ask financial aid administrators at institutions of higher education to allow use of their current year income in the financial aid process.

"(5) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.

"(6) Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training under this chapter, and for purposes of job placement after receiving such training.

"(7) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

"(A) job vacancy listings in such labor market areas;

"(B) information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

"(C) information relating to local occupations that are in demand and earnings potential of such occupations; and

"(D) skills requirements for local occupations described in subparagraph (C).

"(8) Supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.".

(b) CLERICAL AMENDMENT.—The item relating to section 235 in the table of contents for title II of the Trade Act of 1974 is amended to read as follows:

"235. Employment and case management services.".

SEC. 127. TRAINING.

(a) IN GENERAL.—Subsection (a)(1) of section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended by striking the last sentence.

(b) FUNDING.—Subsection (a)(2) of such section is amended—

(1) in subparagraph (A), to read as follows:

"(A) The total amount of payments that may be made under paragraph (1) for each of the fiscal years 2008 and 2009 shall not exceed $440,000,000. The total amount of payments that may be made under paragraph (1) for fiscal year 2010 and each subsequent fiscal year shall not exceed $660,000,000."; and

(2) by striking subparagraph (B) and inserting the following:

"(B) Not later than 120 days after the date of the enactment of the Trade and Globalization Assistance Act of 2007, the Secretary shall establish and implement procedures for the allocation among the States in each fiscal year of funds available to pay the costs of training for workers under this section. The Secretary shall, at least 60 days before the date on which the procedures described in this subparagraph are first implemented, consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate with respect to such procedures.

"(C) In establishing and implementing the procedures under subparagraph (B), the Secretary shall—

"(i) provide for at least 3 distributions of funds available for training in the fiscal year, and, in the first such distribution, disburse not more than 50 percent of the total amount of funds available for training in that fiscal year;

"(ii) consider using a broad range of factors for the allocation of training funds distributed to States for each fiscal year, including factors such as—

"(I) the number of workers certified under sections 223 and 223A in the preceding fiscal year;

"(II) the total number of workers certified under sections 223 and 223A that are enrolled in training approved under this section;

"(III) the minimum level of funding necessary to provide training approved under this section; and

"(IV) notifications under the Worker Adjustment and Retraining Notification Act or other layoff notifications;

"(iii) after the initial distribution of training funds to States at the beginning of each fiscal year, provide for subsequent distributions of training funds remaining, based on the factors described in clause (ii) (but, in the case of the factor described in subclause (I) of clause (ii), based on data from the preceding 2 fiscal quarters) if a State requests the distribution of the remaining funds;

"(iv) ensure that any final distribution of funds during a fiscal year is made not later than July 1 of that fiscal year; and

"(v) develop an explicit policy for re-capture and redistribution of training funds, to the extent such re-capture and redistribution of training funds is necessary.".

(c) DETERMINATIONS REGARDING TRAINING.—Subsection (a)(9) of such section is amended—

(1) by striking "The Secretary" and inserting "(A) Subject to subparagraph (B), the Secretary"; and

(2) by adding at the end the following:

"(B)(i) In determining under paragraph (1)(E) whether a worker is qualified to undertake and complete training, the Secretary may not disallow training for a period longer than the worker's period of eligibility for trade readjustment allowances under part I if the worker demonstrates that the worker has sufficient financial resources to complete the training after the expiration of the worker's period of eligibility for such trade readjustment allowances.

"(ii) In determining the reasonable cost of training under paragraph (1)(F) with respect to a worker, the Secretary may consider whether other public or private funds are reasonably available to the worker, except that the Secretary may not require a worker to obtain such funds as a condition of approval of training under paragraph (1).".

(d) DETERMINATIONS OF ELIGIBILITY BY STATE EMPLOYEES APPOINTED ON MERIT BASIS.—Such section is further amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) DETERMINATIONS OF ELIGIBILITY BY STATE EMPLOYEES APPOINTED ON MERIT BASIS.—All determinations of eligibility for training under this section shall be made by employees of the State who are appointed on a merit basis.".

(e) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the procedures for the allocation of training funds for workers under subparagraphs (B) and (C) of section 236(a)(2) of the Trade Act of 1974 (19 U.S.C. 2296), as added by subsection (a) of this section, that are established and implemented by the Secretary of Labor pursuant to such section. In carrying out the study, the Comptroller General shall examine the overall adequacy of funding for training for workers by State and the effectiveness of the procedures for allocating training funds between States and among workers.

(2) REPORTS.—

(A) INTERIM REPORT.—The Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim report that contains the results of the study conducted under paragraph (1) for the first fiscal year with respect to which the procedures described in paragraph (1) are implemented.

(B) FINAL REPORT.—The Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a final report that contains the results of the study conducted under paragraph (1) for the first three fiscal years with respect to which the procedures described in paragraph (1) are implemented.

SEC. 128. PREREQUISITE EDUCATION; APPROVED TRAINING PROGRAMS.

(a) IN GENERAL.—Section 236(a)(5) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "and" at the end of clause (i);

(B) by adding "and" at the end of clause (ii); and

(C) by inserting after clause (ii) the following:

"(iii) apprenticeship programs registered under the National Apprenticeship Act (29 U.S.C. 50 et seq.),";

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(3) by inserting after subparagraph (D) the following:

"(E) any program of prerequisite education or coursework required to enroll in training that may be approved under this section,";

(4) in subparagraph (F)(ii), as redesignated by paragraph (1), by striking "and" at the end;

(5) in subparagraph (G), as redesignated by paragraph (1), by striking the period at the end and inserting ", and"; and

(6) by adding at the end the following:

"(H) any training program or coursework at an accredited institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), including a training program or coursework for the purpose of—

"(i) obtaining a degree or certification; or

"(ii) completing a degree or certification that the worker had previously begun at an accredited institution of higher education.

The Secretary may not limit approval of a training program under paragraph (1) to a program provided pursuant to title I of the Workforce Investment Act of 1998.".

(b) CONFORMING AMENDMENTS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) in subsection (a)(2), by inserting "prerequisite education or" after "requires a program of"; and

(2) in subsection (f) (as redesignated by section 121(d) of this Act), by inserting "prerequisite education or" after "includes a program of".

SEC. 129. ELIGIBILITY FOR UNEMPLOYMENT INSURANCE AND PROGRAM BENEFITS WHILE IN TRAINING.

(a) IN GENERAL.—Section 236(d) of the Trade Act of 1974 (19 U.S.C. 2296(d)) is amended to read as follows:

"(d) ELIGIBILITY.—A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter—

"(1) because the worker—

"(A) is enrolled in training approved under subsection (a); or

"(B) left work—

"(i) that was not suitable employment to enter such training; or

"(ii) that the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or

"(2) because the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work apply to a week of training approved under subsection (a).".

(b) DEFINITION.—Subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.) is amended—

(1) in section 233(d) (as redesignated by section 121(d) of this Act), by inserting "suitable" before "on-the-job training"; and

(2) in section 236—

(A) by inserting "suitable" before "on-the-job training" each place it appears; and

(B) by adding at the end the following:

"(h) SUITABLE ON-THE-JOB TRAINING.—For purposes of this section, the term 'suitable on-the-job training' means on-the-job training—

"(1) that can reasonably be expected to lead to suitable employment;

"(2) that is compatible with the skills of the worker;

"(3) that—

"(A) involves a curriculum through which the worker learns the skills necessary for the job for which the worker is being trained; and

"(B) can be measured by benchmarks that indicate that the worker is learning such skills; and

"(4) that is certified by the State as an on-the-job training program that meets the requirements of paragraph (3).".

SEC. 130. ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.

(a) IN GENERAL.—Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295 et seq.) is amended by inserting after section 236 the following:

"SEC. 236A. ADDITIONAL PAYMENTS FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Secretary shall provide to each State that receives a payment under section 236 for a fiscal year an additional payment for such fiscal year in an amount that is not less than 15 percent of the amount of the payment under section 236.

"(2) USE OF FUNDS.—A State that receives an additional payment under paragraph (1) shall use the payment for administration of the trade adjustment assistance for workers program under this chapter, including for—

"(A) processing of waivers of training requirements under section 231;

"(B) collecting of data required under this chapter; and

"(C) providing services under section 235.

"(3) ADMINISTRATION REQUIREMENT.—Funds provided to a State under this subsection for a fiscal year that are in excess of the amount of funds provided to the State for administration of the trade adjustment assistance for workers program under this chapter for fiscal year 2007 may only be administered by employees of the State who are appointed on a merit basis.

"(b) ADDITIONAL FUNDING FOR EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

"(1) IN GENERAL.—The Secretary shall provide to each State that receives a payment under section 236 for a fiscal year an additional payment for such fiscal year in an amount that is not less than .06 percent of the total amount of payments that may be made in that fiscal year as described in section 236(a)(2).

"(2) USE OF FUNDS.—A State that receives an additional payment under paragraph (1) shall use the payment for providing services under section 235.

"(3) ADMINISTRATION REQUIREMENT.—Funds provided to a State under this subsection may only be administered by employees of the State who are appointed on a merit basis.

"(c) FUNDING.—Funds provided to the States under this section shall not be counted toward the limitation contained in section 236(a)(2)(A).".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 236 the following:

"Sec. 236A. Additional payments for administrative expenses and employment and case management services.".

SEC. 131. JOB SEARCH AND RELOCATION ALLOWANCES.

(a) JOB SEARCH ALLOWANCES.—Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended—

(1) in subsection (a)(2)(C)(ii), by striking ", unless the worker received a waiver under section 231(c)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "90 percent of the cost of" and inserting "all"; and

(B) in paragraph (2), by striking "$1,250" and inserting "$1,500".

(b) RELOCATION ALLOWANCES.—Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) in subsection (a)(2)(E)(ii), by striking ", unless the worker received a waiver under section 231(c)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "90 percent of the" and inserting "all"; and

(B) in paragraph (2), by striking "$1,250" and inserting "$1,500".

Subtitle D—Health Care Provisions

SEC. 141. MODIFICATIONS RELATING HEALTH INSURANCE ASSISTANCE FOR CERTAIN TAA AND PBGC PENSION RECIPIENTS.

(a) INCREASE IN CREDIT PERCENTAGE AMOUNT.—

(1) IN GENERAL.—Subsection (a) of section 35 of the Internal Revenue Code of 1986 is amended by striking "65 percent" and inserting "85 percent".

(2) CONFORMING AMENDMENT.—Subsection (b) of section 7527 of such Code is amended by striking "65 percent" and inserting "85 percent".

(b) TAA RECIPIENTS RECEIVING UNEMPLOYMENT COMPENSATION AND NOT ENROLLED IN TRAINING PROGRAM ELIGIBLE FOR CREDIT.—Paragraph (2) of section 35(c) of such Code is amended to read as follows:

"(2) ELIGIBLE TAA RECIPIENT.—The term 'eligible TAA recipient' means, with respect to any month, any individual who—

"(A) is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974, or

"(B) who is receiving unemployment compensation (as defined in section 85) for such month and who would be eligible to receive such allowance for such month if section 231 of such Act were applied without regard to subsections (a)(3)(B) and (a)(5) thereof.

An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.".

(c) ELIGIBILITY FOR ELIGIBLE INDIVIDUALS MADE RETROACTIVE TO TAA-RELATED LOSS OF EMPLOYMENT.—Subsection (c) of section 35 of such Code is amended by adding at the end the following new paragraph:

"(5) RETROACTIVE ELIGIBILITY FOR TAA RECIPIENTS.—In the case of any individual who is an eligible TAA recipient or eligible alternative TAA recipient for any month, such individual shall be treated as an eligible individual for any month which precedes such month and which begins after the later of—

"(A) the date of the separation from employment which gives rise to such individual being an eligible TAA recipient or eligible alternative TAA recipient, or

"(B) December 31, 2007.".

(d) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—

(1) IN GENERAL.—Subsection (g) of section 35 of such Code is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

"(9) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—

"(A) MEDICARE ELIGIBILITY.—In the case of any month which would be an eligible coverage month with respect to an eligible individual but for subsection (f)(2)(A), such month shall be treated as an eligible coverage month with respect to such eligible individual solely for purposes of determining the amount of the credit under this section with respect to any qualifying family members of such individual (and any advance payment of such credit under section 7527). This subparagraph shall only apply with respect to the first 36 months after such eligible individual is first entitled to the benefits described in subsection (f)(2)(A).

"(B) DIVORCE.—In the case of the finalization of a divorce between an eligible individual and such individual's spouse, such spouse shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 36 months beginning with the date of such finalization, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such finalization.

"(C) DEATH.—In the case of the death of an eligible individual—

"(i) any spouse of such individual (determined at the time of such death) shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 36 months beginning with the date of such death, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such death, and

"(ii) any individual who was a qualifying family member of the decedent immediately before such death (or, in the case of an individual to whom paragraph (4) applies, the taxpayer to whom the deduction under section 151 is allowable) shall be treated as an eligible individual for purposes of this section and section 7527 for a period of 36 months beginning with the date of such death, except that in determining the amount of such credit only such qualifying family member may be taken into account.".

(2) CONFORMING AMENDMENT.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

"(8) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—

"(A) MEDICARE ELIGIBILITY.—In the case of any month which would be an eligible coverage month with respect to an eligible individual but for paragraph (7)(B)(i), such month shall be treated as an eligible coverage month with respect to such eligible individual solely for purposes of determining

the eligibility of qualifying family members of such individual under this subsection. This subparagraph shall only apply with respect to the first 36 months after such eligible individual is first entitled to the benefits described in paragraph (7)(B)(i).

"(B) DIVORCE.—In the case of the finalization of a divorce between an eligible individual and such individual's spouse, such spouse shall be treated as an eligible individual for purposes of this subsection for a period of 36 months beginning with the date of such finalization, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such finalization.

"(C) DEATH.—In the case of the death of an eligible individual—

"(i) any spouse of such individual (determined at the time of such death) shall be treated as an eligible individual for purposes of this subsection for a period of 36 months beginning with the date of such death, except that the only qualifying family members who may be taken into account with respect to such spouse are those individuals who were qualifying family members immediately before such death, and

"(ii) any individual who was a qualifying family member of the decedent immediately before such death shall be treated as an eligible individual for purposes this subsection for a period of 36 months beginning with the date of such death, except that no qualifying family members may be taken into account with respect to such individual.".

(e) MODIFICATION OF CREDITABLE COVERAGE REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 35(e)(2) of such Code is amended to read as follows:

"(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph, the term 'qualifying individual' means an eligible individual and the qualifying family members of such individual if such individual meets the requirements of clauses (iii) and (iv) of subsection (b)(1)(A) and—

"(i) in the case of an eligible TAA recipient or an eligible alternative TAA recipient, has (as of the date on which the individual seeks to enroll in the coverage described in subparagraphs (B) through (H) of paragraph (1)) a period of creditable coverage (as defined in section 9801(c)), or

"(ii) in the case of an eligible PBGC pension recipient, enrolls in such coverage during the 90-day period beginning on the later of—

"(I) the last day of the first month with respect to which such recipient becomes an eligible PBGC pension recipient, or

"(II) the date of the enactment of this subparagraph.".

(2) CONFORMING AMENDMENT.—Clause (ii) of section 172(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended to read as follows:

"(ii) QUALIFYING INDIVIDUAL.—For purposes of this subparagraph, the term 'qualifying individual' means an eligible individual and the qualifying family members of such individual if such individual meets the requirements of clauses (iii) and (iv) of section 35(b)(1)(A) of the Internal Revenue Code of 1986 and—

"(I) in the case of an eligible TAA recipient or an eligible alternative TAA recipient, has (as of the date on which the individual seeks to enroll in the coverage described in clauses (ii) through (viii) of subparagraph (A)) a period of creditable coverage (as defined in section 9801(c) of such Code), or

"(II) in the case of an eligible PBGC pension recipient, enrolls in such coverage during the 90-day period beginning on the later of—

"(aa) the last day of the first month with respect to which such recipient becomes an eligible PBGC pension recipient, or

"(bb) the date of the enactment of this clause.".

(3) OUTREACH.—The Secretary of the Treasury shall carry out a program to notify individuals prior to their becoming eligible PBGC pension recipients (as defined in section 35 of the Internal Revenue Code of 1986) of the requirement of subsection (e)(2)(B)(ii) of such section, as added by this subsection.

(f) TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.—

(1) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following new subparagraph:

"(D) TAA-ELIGIBLE INDIVIDUALS.—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).".

(2) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) TAA-ELIGIBLE INDIVIDUALS.—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(c).".

(3) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) TAA-ELIGIBLE INDIVIDUALS.—

"(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

"(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(c).".

(g) RATING SYSTEM REQUIREMENT FOR CERTAIN STATE-BASED COVERAGE.—

(1) IN GENERAL.—Subparagraph (A) of section 35(e)(2) of such Code is amended by adding at the end the following new clause:

"(v) RATING SYSTEM REQUIREMENT.—In the case of coverage described in paragraph (1)(F)(ii), the premiums for such coverage are restricted, based on a community rating system with respect to eligible individuals and their qualifying family members, or based on a rate-band system under which the maximum rate which may be charged does not exceed 150 percent of the standard rate with respect to eligible individuals and their qualifying family members.".

(2) CONFORMING AMENDMENT.—Clause (i) of section 173(f)(2)(B) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)) is amended by adding at the end the following new subclause:

"(V) RATING SYSTEM REQUIREMENT.—In the case of coverage described in subparagraph (A)(vi)(II), the premiums for such coverage are restricted, based on a community rating system with respect to eligible individuals and their qualifying family members, or based on a rate-band system under which the maximum rate which may be charged does not exceed 150 percent of the standard rate with respect to eligible individuals and their qualifying family members.".

(h) TERMINATION OF PROGRAM.—

(1) IN GENERAL.—Section 35 of such Code is amended by adding at the end the following new subsection:

"(h) TERMINATION.—An individual shall not be treated as an eligible individual for purposes of this section or section 7527 for any month beginning after December 31,

2009, unless such individual was an eligible individual for a continuous period of months ending with such month and beginning before such date.".

(2) CONFORMING AMENDMENT.—Subsection (f) of section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following new paragraph:

"(8) TERMINATION.—An individual shall not be treated as an eligible individual for purposes of this subsection for any month beginning after December 31, 2009, unless such individual was an eligible individual for a continuous period of months ending with such month and beginning before such date.".

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to months beginning after December 31, 2007, in taxable years ending after such date.

(2) RATING SYSTEM REQUIREMENT.—The amendments made by subsection (g) shall apply to months beginning after March 31, 2008, in taxable years ending after such date.

(3) DISCRETION TO DELAY EFFECTIVE DATE FOR PURPOSES OF ADVANCE PAYMENT PROGRAM.—Solely for purposes of carrying out the advance payment program under section 7527, the Secretary may provide that one or more amendments made by subsections (b), (c), and (d) shall not apply to one or more months beginning before March 31, 2008, to the extent that the Secretary determines that such delay is necessary to properly implement any such amendment as part of such program.

(j) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study regarding the health insurance tax credit allowed under section 35 of the Internal Revenue Code of 1986.

(2) REPORT.—Not later than March 1, 2009, the Comptroller General shall submit a report to Congress regarding the results of the study conducted under paragraph (1). Such report shall include an analysis of—

(A) the administrative costs—

(i) of the Federal Government with respect to such credit and the advance payment of such credit under section 7527 of such Code, and

(ii) of providers of qualified health insurance with respect to providing such insurance to eligible individuals and their qualifying family members,

(B) the health status and relative risk status of eligible individuals and qualifying family members covered under such insurance,

(C) participation in such credit and the advance payment of such credit by eligible individuals and their qualifying family members, including the reasons why such individuals did or did not participate and the effect of the amendments made by this section on such participation, and

(D) the extent to which eligible individuals and their qualifying family members—

(i) obtained health insurance other than qualifying health insurance, or

(ii) went without health insurance coverage.

(3) ACCESS TO RECORDS.—For purposes of conducting the study required under this subsection, the Comptroller General and any of his duly authorized representatives shall have access to, and the right to examine and copy, all documents, records, and other recorded information—

(A) within the possession or control of providers of qualified health insurance, and

(B) determined by the Comptroller General (or any such representative) to be relevant to the study.

The Comptroller General shall not disclose the identity of any provider of qualified health insurance or any eligible individual in making any information obtained under this section available to the public.

(4) DEFINITIONS.—Any term which is defined in section 35 of the Internal Revenue Code of 1986 shall have the same meaning when used in this subsection.

Subtitle E—Wage Insurance

SEC. 151. REEMPLOYMENT TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR OLDER WORKERS.

(a) IN GENERAL.—Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended—

(1) by amending the heading to read as follows: "reemployment trade adjustment assistance";

(2) in subsection (a)—

(A) in paragraph (1), by striking "alternative" and inserting "reemployment";

(B) in paragraph (2)(A), by striking "for a period not to exceed 2 years" and inserting "for the eligibility period under paragraph (3)(C)"; and

(C) by striking paragraphs (3) through (5) and inserting the following:

"(3) ELIGIBILITY.—

"(A) IN GENERAL.—A group of workers certified under subchapter A as eligible for adjustment assistance under subchapter A is eligible for benefits described in paragraph (2) under the program established under paragraph (1).

"(B) INDIVIDUAL ELIGIBILITY.—A worker in a group of workers described in subparagraph (A) may elect to receive benefits described in paragraph (2) under the program established under paragraph (1) if the worker—

"(i) is at least 50 years of age;

"(ii) earns not more than $60,000 each year in wages from reemployment;

"(iii)(I) is employed on a full-time basis as defined by State law in the State in which the worker is employed; or

"(II) is employed at least 20 hours per week and is enrolled in training approved under section 236; and

"(iv) does not return to the employment from which the worker was separated.

In the case of a worker described in clause (iii)(II), the percentage referred to in paragraph (2)(A) shall be deemed to be a percentage equal to ½ of the ratio of weekly hours of employment referred to in clause (iii)(II) to weekly hours of employment of that worker at the time of separation (but not more than 50 percent).

"(C) ELIGIBILITY PERIOD FOR PAYMENTS.—A worker in a group of workers described in subparagraph (A) may receive payments described in paragraph (2)(A) under the program established under paragraph (1) for a period not to exceed 2 years from the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from adversely affected employment or the date on which the worker obtains reemployment, whichever is earlier.

"(D) TRAINING.—A worker described in subparagraph (B) shall be eligible to receive training approved under section 236.

"(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed $12,000 per worker during the eligibility period under paragraph (3)(C).

"(5) LIMITATION ON OTHER BENEFITS.—A worker described in paragraph (3) may not receive a trade readjustment allowance under part I of subchapter B during any week for which the worker receives a payment described in paragraph (2)(A).."; and

(3) in subsection (b)(2), by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)".

(b) EXTENSION OF PROGRAM.—Subsection (b)(1) of such section is amended by striking "5" and inserting "10".

(c) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by striking the item relating to section 246 and inserting the following:

"Sec. 246. Reemployment trade adjustment assistance program.".

Subtitle F—Other Matters

SEC. 161. AGREEMENTS WITH STATES.

(a) IN GENERAL.—Subsection (a) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended—

(1) by striking "will" each place it appears and inserting "shall"; and

(2) in clause (2), to read as follows: "(2) in accordance with subsection (f), shall provide adversely affected workers covered by a certification under subchapter A the employment and case management services described in section 235".

(b) OUTREACH.—Subsection (f) of such section is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by striking paragraph (4) and inserting the following:

"(4) perform outreach, intake (which may include worker profiling) and orientation for assistance and benefits available under this chapter for adversely affected workers covered by a certification under subchapter A of this chapter, and"; and

(3) by adding at the end the following:

"(5) provide adversely affected workers covered by a certification under subchapter A of this chapter with employment and case management services described in section 235.".

SEC. 162. FRAUD AND RECOVERY OF OVERPAYMENTS.

Section 243(a)(1) of the Trade Act of 1974 (19 U.S.C. 2315(a)(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "may waive" and inserting "shall waive"; and

(B) by striking ", in accordance with guidelines prescribed by the Secretary," and

(2) in subparagraph (B), by striking "would be contrary to equity and good conscience" and inserting "would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household)".

SEC. 163. TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Section 249 of the Trade Act of 1974 (19 U.S.C. 2321) is amended—

(1) in the heading, by striking "subpena" and inserting "subpoena"; and

(2) in the text, by striking "subpena" and inserting "subpoena" each place it appears.

(b) CLERICAL AMENDMENT.—The item relating to section 249 in the table of contents for title II of the Trade Act of 1974 is amended to read as follows:

"249. Subpoena power.".

SEC. 164. OFFICE OF TRADE ADJUSTMENT ASSISTANCE; DEPUTY ASSISTANT SECRETARY FOR TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.) is amended by adding at the end the following:

"SEC. 250. OFFICE OF TRADE ADJUSTMENT ASSISTANCE; DEPUTY ASSISTANT SECRETARY FOR TRADE ADJUSTMENT ASSISTANCE.

"(a) ESTABLISHMENT.—There is established in the Department of Labor an office to be known as the Office of Trade Adjustment Assistance (hereinafter in this section referred to as the 'Office').

"(b) HEAD OF OFFICE.—The head of the Office shall be the Deputy Assistant Secretary for Trade Adjustment Assistance (hereinafter in this section referred to as the 'Deputy Assistant Secretary'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"(c) PRINCIPLE FUNCTIONS.—The principle functions of the Deputy Assistant Secretary shall be—

"(1) to oversee and implement the administration of trade adjustment assistance for workers under this chapter; and

"(2) to carry out functions delegated to the Secretary of Labor under this chapter, including—

"(A) making determinations under section 223 or 223A;

"(B) providing information about the program and assisting groups of workers and other parties to prepare petitions or applications for program benefits under section 225;

"(C) ensuring workers covered by a certification receive the employment services described in section 235;

"(D) ensuring States fully comply with agreements under section 239;

"(E) acting as a vigorous advocate for workers applying for assistance under this chapter;

"(F) receiving complaints, grievances, and requests for assistance from workers under this chapter;

"(G) establishing and overseeing a hotline that workers, employers, and other entities may call to obtain information regarding eligibility criteria, procedural requirements, and benefits available under this chapter; and

"(H) carrying out such other duties with respect to this chapter as the President may specify for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 249 the following:

"Sec. 250. Office of Trade Adjustment Assistance; Deputy Assistant Secretary for Trade Adjustment Assistance.".

SEC. 165. COLLECTION OF DATA AND REPORTS; INFORMATION TO WORKERS.

(a) IN GENERAL.—Subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.) is amended by adding at the end the following:

"SEC. 250A. COLLECTION OF DATA AND REPORTS; INFORMATION TO WORKERS.

"(a) IN GENERAL.—Not later than 90 days after the date of the enactment of the Trade and Globalization Assistance Act of 2007, the Secretary shall implement a system to collect and publicly disseminate data on all adversely affected workers who apply for or receive adjustment assistance under this chapter.

"(b) DATA TO BE INCLUDED.—The system required under subsection (a) shall include collection of the following data classified by State, industry, and nationwide totals:

"(1) The number of petitions and number of workers covered by petitions filed, certified and denied.

"(2) The date of filing of each petition and the date of the determination, and the average processing time, by year, on petitions.

"(3) A breakdown, by the claimed cause of dislocation, of petitions denied, such as increased imports, shift in production, and other bases for eligibility.

"(4) A breakdown of the number of certified petitions by the cause of dislocation, such as increase in imports, shift in production, and other causes of eligibility for adjustment assistance.

"(5) The number of workers participating in any aspect of the adjustment assistance program under this chapter.

"(6) Reemployment rates and sectors in which dislocated workers have been employed after receiving adjustment assistance under this chapter.

"(7) The type of adjustment assistance received under this chapter, such as training or education assistance, reemployment adjustment assistance, cash benefits, health coverage, and relocation allowances, the number of workers receiving each type of assistance, and the average duration of time workers receive each type of assistance.

"(8) The fields of training or education in which workers receiving training or education benefits under this chapter are enrolled, the number of workers participating in each field, classified by major types of training or education.

"(9) The number of workers leaving training before completing a course of training or education, classified by the cause for early termination.

"(10) The number of training waivers granted, classified by type of waiver.

"(11) The wages of workers before separation and any job obtained after receiving benefits under the trade adjustment assistance program under this chapter.

"(12) The average duration of training that was completed.

"(c) REPORT.—Not later than 16 months after the date of the enactment of the Trade and Globalization Assistance Act of 2007, and annually thereafter, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and any other congressional committee of appropriate jurisdiction, a report on whether changes to eligibility requirements, benefits, or training funding under the trade adjustment assistance program under this chapter should be made based on the data collected under subsection (b).

"(d) AVAILABILITY ON WEBSITE OF THE DEPARTMENT OF LABOR.—The Secretary shall make the data collected under subsection (b) publicly available on the website of the Department of Labor, in a searchable format, and shall update the data quarterly.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 250 (as added by section 163(b) of this Act) the following:

"Sec. 250A. Collection of data and reports; information to workers.".

SEC. 166. EXTENSION OF TAA PROGRAM.

(a) FOR WORKERS.—Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking "December 31, 2007" and inserting "September 30, 2012".

(b) TERMINATION.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271 note) is amended by striking "December 31, 2007" each place it appears and inserting "September 30, 2012".

(c) FOR FARMERS.—Section 298(a) of the Trade Act of 1974 (19 U.S.C. 2401g(a)) is amended by adding at the end the following: "There are authorized to be appropriated to the Department of Agriculture not to exceed $81,000,000 for the 9-month period beginning on January 1, 2008, and $90,000,000 for each of the fiscal years 2009 through 2012 to carry out the purposes of this chapter.".

SEC. 167. JUDICIAL REVIEW.

Section 284 of the Trade Act of 1974 (19 U.S.C. 2395) is amended—

(1) in subsection (a)—

(A) by inserting "or 223A" after "223"; and

(B) by striking "271" and inserting "273";

(2) by amending subsection (b) to read as follows:

"(b) STANDARD OF REVIEW.—The Court of International Trade shall have jurisdiction to review the case as provided in section 706 of title 5, Untied States Code. The findings of fact by the Secretary of Labor, the Secretary of Commerce, or the Secretary of Agriculture, as the case may be, must be supported by substantial evidence and must be based on a reasonable investigation. The Court of International Trade may—

"(1) remand the case to such Secretary to take further evidence; or

"(2) reverse the action of such Secretary.

If the case is remanded under paragraph (1), the Secretary concerned may make new or modified findings of fact and may modify the Secretary's previous action, and shall certify to the court the record of the further proceedings. The new or modified findings of fact must be supported by substantial evidence and must be based on a reasonable investigation."; and

(3) in subsection (c), by striking the first sentence.

SEC. 168. LIBERAL CONSTRUCTION OF CERTIFICATION OF WORKERS AND FIRMS.

(a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391 et seq.) is amended by adding at the end the following:

"SEC. 288. LIBERAL CONSTRUCTION OF CERTIFICATION OF WORKERS AND FIRMS.

"The provisions of chapter 2 (relating to adjustment assistance for workers) and the provisions of chapter 3 (relating to adjustment assistance for firms) shall be liberally construed in favor of certifying workers for assistance under such chapter 2 and certifying firms for assistance under such chapter 3.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 287 the following:

"Sec. 288. Liberal construction of certification of workers and firms.".

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

SEC. 201. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) IN GENERAL.—Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(1) in subsection (a), by inserting "or service sector firm" after "(including any agricultural firm";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "or service sector firm" after "any agricultural firm"; and

(ii) in subparagraph (B)—

(I) in clause (i), by striking ", or" and inserting a comma;

(II) in clause (ii)—

(aa) by inserting "or service" after "of an article"; and

(bb) by striking ", and" and inserting a comma; and

(III) by adding at the end the following:

"(iii) sales or production, or both, of the firm, during the period consisting of not more than 36 months preceding the most recent 12-month period for which data are available, have decreased absolutely, or

"(iv) sales or production, or both, of an article or service that accounted for not less than 25 percent of the total production or sales of the firm during the 36-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and"; and

(B) in the matter preceding subparagraph (A) of paragraph (2) , by striking "paragraph (1)(C)—" and inserting "paragraph (1)(C):"; and

(3) by adding at the end the following:

"(e) BASIS FOR THE DETERMINATION OF THE SECRETARY.—

"(1) INCREASED IMPORTS.—For purposes of subsection (c)(1)(C), the Secretary—

"(A) may use data from any of the preceding three calendar years to determine if the requirements of such subsection have been met;

"(B) may determine that increases of imports of like or directly competitive articles or services exist if customers accounting for a significant percentage of the decrease in the sales of the firm certify to the Secretary that such customers are obtaining such articles or services from a foreign country; and

"(C) may, in determining whether increased imports of like or directly competitive articles or services exist, give special consideration to whether it is difficult to demonstrate an increase of such imports if the share of such imports relative to production or consumption in the United States of the article produced or service provided by the firm concerned is already significant.

"(2) PROCESS AND METHODS FOR OBTAINING CERTIFICATIONS.—

"(A) REQUEST BY PETITIONER.—If requested by a firm, the Secretary shall obtain the certifications under paragraph (1)(B) in such manner as the Secretary determines is appropriate.

"(B) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary may not release information obtained under subparagraph (A) that the Secretary considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Secretary, or such party subsequently consents to the release of the information. Nothing in this subparagraph shall be construed to prohibit a court from requiring the submission of such confidential business information to the court in camera.

"(f) NOTIFICATION TO FIRMS OF AVAILABILITY OF BENEFITS.—Upon receiving notice from the Secretary of Labor under section 225(c) of the identity of a firm or firms that are covered by a certification issued under section 223 or 223A, the Secretary of Commerce shall notify such firm or firms of the availability of adjustment assistance under this chapter.".

(b) DEFINITION.—Section 261 of the Trade Act of 1974 (19 U.S.C. 2351) is amended—

(1) by striking "For purposes of" and inserting "(a) FIRM.—For purposes of"; and

(2) by adding at the end the following:

"(b) SERVICE SECTOR FIRM.—For purposes of this chapter, the term 'service sector firm' means a firm engaged in the business of providing services.".

SEC. 202. EXTENSION OF AUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE FOR FIRMS.

Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(1) by striking "and $4,000,000 for the 3-month period beginning on October 1, 2007," inserting "and $50,000,000 for each of fiscal years 2008 through 2012," after "fiscal years 2003 through 2007,"; and

(2) by inserting after the first sentence the following: "Of the amounts appropriated pursuant to this subsection for each fiscal year, $350,000 shall be available for full-time positions in the Department of Commerce to administer the program under this chapter.".

SEC. 203. INDUSTRY-WIDE PROGRAMS FOR THE DEVELOPMENT OF NEW SERVICES.

Section 265(a) of the Trade Act of 1974 (19 U.S.C. 2355(a)) is amended—

(1) in the first sentence, by striking "new product development" and inserting "the development of new products and services"; and

(2) in the second sentence, by inserting ", 223A," after "223".

SEC. 204. DEMONSTRATION PROJECT ON STRATEGIC TRADE TRANSFORMATION ASSISTANCE.

(a) IN GENERAL.—Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341 et seq.) is amended by adding at the end the following:

"SEC. 266. DEMONSTRATION PROJECT ON STRATEGIC TRADE TRANSFORMATION ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall conduct a demonstration project (in this section referred to as the 'project') to demonstrate a programmatic framework that will allow small- and medium-sized manufacturers in the United States to gain access to resources that will help them better compete domestically and globally. The project should include among its primary goals the following:

"(1) Expanding the number of firms capable of taking advantage of a trade remedy program without drastically increasing the cost of the remedy to the taxpayer.

"(2) Certifying and providing assistance to approximately 700 firms.

"(3) Integrating the benefits of other applicable government programs into the project, and making benefits from the project subject to that integration.

"(4) Increasing the number of small- and medium-sized firms that export and increasing the value of exports from these firms.

"(5) Increasing revenues that small- and medium-sized firms derive from sales to the Federal Government and State and local governments.

"(6) Expanding technology availability to the small- and medium-sized firm segment by increasing access to, and adoption of, the latest technologies being developed at Federal laboratories and at universities.

"(7) Improving the business and manufacturing practices of small- and medium-sized firms to enable them to become competitive in a global marketplace.

"(b) ADVISORY BOARD.—

"(1) IN GENERAL.—In carrying out the project, the Secretary shall establish an advisory board comprised of representatives described in paragraph (2) to provide advice and recommendations with respect to the establishment and operation of the project.

"(2) REPRESENTATIVES.—Representatives referred to in paragraph (1) shall consist of the respective executive directors of each Trade Adjustment Assistance Center affiliated with the trade adjustment assistance for firms program under this chapter.

"(c) DURATION.—The Secretary shall conduct the project for the 3-year period beginning on the date that is 180 days after the date of the enactment of this Act.

"(d) ADMINISTRATION OF PROJECT.— In implementing the project, the Secretary shall give preference, in entering into contracts for the operation and administration of the project, to Trade Adjustment Assistance Centers affiliated with the trade adjustment assistance for firms program under this chapter.

"(e) REPORT.—The Secretary shall submit to the Congress a report on the project under this section not later than 6 months after the date of the completion of the project. Such report shall include—

"(1) information on the impact of the project on mitigating the impact of imports in terms of competitiveness; and

"(2) recommendations on the cost-effectiveness of extending or expanding the project.

"(f) FUNDING.—Of the amounts made available to carry out this chapter for fiscal years 2008 through 2012, not more than $1,000,000 for each such fiscal year is authorized to be made available to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of contents for title II of the Trade Act of 1974 is amended by inserting after the item relating to section 265 the following:

"Sec. 266. Demonstration project on strategic trade transformation assistance.".

TITLE III—UNEMPLOYMENT INSURANCE

SEC. 301. SHORT TITLE.

This title may be cited as the "Unemployment Insurance Modernization Act".

SEC. 302. SPECIAL TRANSFERS TO STATE ACCOUNTS IN THE UNEMPLOYMENT TRUST FUND.

(a) IN GENERAL.—Section 903 of the Social Security Act (42 U.S.C. 1103) is amended by adding at the end the following:

"Special Transfers in Fiscal Years 2008 Through 2012 for Modernization

"(f)(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter 'incentive payments') to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with succeeding provisions of this subsection.

"(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying $7,000,000,000 times the same ratio as is applicable under subsection (a)(2)(B) for purposes of determining such State's share of any funds to be transferred under subsection (a) as of October 1, 2007.

"(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State—

"(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

"(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

"(2) The State law of a State meets the requirements of this paragraph if such State law—

"(A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation; or

"(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

"(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

"(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time (and not full-time) work, except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work.

"(B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for compelling family reasons. For purposes of this subparagraph, the term 'compelling family reasons' includes at least the following:

"(i) Domestic violence (verified by such reasonable and confidential documentation as the State law may require) which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family.

"(ii) The illness or disability of a member of the individual's immediate family.

"(iii) The need for the individual to accompany such individual's spouse—

"(I) to a place from which it is impractical for such individual to commute; and

"(II) due to a change in location of the spouse's employment.

"(C) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular and (if applicable) extended unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. Such program shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation. The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, and the total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

"(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may by regulation prescribe, including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen the State's unemployment compensation program. The Secretary of Labor shall, within 90 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

"(B) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation under certain conditions) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 30 days after receiving such certification.

"(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 303 or approvable under section 3304 of the Federal Unemployment Tax Act.

"(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

"(iii) No application under subparagraph (A) may be considered if submitted before October 1, 2007, or after the latest date necessary (as specified by the Secretary of Labor in regulations) to ensure that all incentive payments under this subsection are made before October 1, 2012.

"(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

"(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

"(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve $7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 902, 910, or 1203 of the amount in the Federal unemployment account as of any given time. Any amount so reserved for which the Secretary of the Treasury has not received a certification under paragraph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2012, become unrestricted as to use as part of the Federal unemployment account.

"(7) For purposes of this subsection, the terms 'benefit year', 'base period', and 'week' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

"Special Transfers in Fiscal Years 2008 Through 2012 for Administration

"(g)(1) Notwithstanding any other provision of this section, the total amount available for transfer to the accounts of the States pursuant to subsection (a) as of the beginning of each of fiscal years 2008, 2009, 2010, 2011, and 2012 shall be equal to the total amount which (disregarding this subsection) would otherwise be so available, increased by $100,000,000.

"(2) Each State's share of any additional amount made available by this subsection shall be determined, certified, and computed in the same manner as described in subsection (a)(2) and shall be subject to the same limitations on transfers as described in subsection (b). For purposes of applying subsection (b)(2), the balance of any advances made to a State under section 1201 shall be credited against, and operate to reduce (but not below zero)—

"(A) first, any additional amount which, as a result of the enactment of this subsection, is to be transferred to the account of such State in a fiscal year; and

"(B) second, any amount which (disregarding this subsection) is otherwise to be transferred to the account of such State pursuant to subsections (a) and (b) in such fiscal year.

"(3) Any additional amount transferred to the account of a State as a result of the enactment of this subsection—

"(A) may be used by the State agency of such State only in the payment of expenses incurred by it for—

"(i) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

"(ii) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in clause (i);

"(iii) the improvement of unemployment benefit and unemployment tax operations; and

"(iv) staff-assisted reemployment services for unemployment compensation claimants; and

"(B) shall be excluded from the application of subsection (c).

"(4) The total additional amount made available by this subsection in a fiscal year shall be taken out of the amounts remaining in the employment security administration account after subtracting the total amount which (disregarding this subsection) is otherwise required to be transferred from such account in such fiscal year pursuant to subsections (a) and (b).".

(b) REGULATIONS.—The Secretary of Labor may prescribe any regulations necessary to carry out the amendment made by subsection (a).

SEC. 303. EXTENSION OF FUTA TAX.

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended—

(1) by striking "2007" in paragraph (1) and inserting "2010", and

(2) by striking "2008" in paragraph (2) and inserting "2011".

SEC. 304. SAFETY NET REVIEW COMMISSION.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish an advisory commission to be known as the "Safety Net Review Commission" (hereinafter in this section referred to as the "Commission").

(b) FUNCTION.—It shall be the function of the Commission to evaluate the unemployment compensation program, the Trade Adjustment Assistance program, the Job Corps program, a program under the Workforce Investment Act, and other employment assistance programs, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of each such program, as well as any related provisions of the Internal Revenue Code of 1986, and to make recommendations for their improvement.

(c) MEMBERS.—

(1) IN GENERAL.—The Commission shall consist of 11 members as follows:

(A) 5 members appointed by the President, to include representatives of business, labor, State government, and the public.

(B) 3 members appointed by the President pro tempore of the Senate, in consultation with the Chairman and ranking member of the Committee on Finance of the Senate.

(C) 3 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman and ranking member of the Committee on Ways and Means of the House of Representatives.

(2) QUALIFICATIONS.—In appointing members under subparagraphs (B) and (C) of paragraph (1), the President pro tempore of the Senate and the Speaker of the House of Representatives shall each appoint—

(A) 1 representative of the interests of business,

(B) 1 representative of the interests of labor, and

(C) 1 representative of the interests of State governments.

(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) CHAIRMAN.—The President shall appoint the Chairman of the Commission from among its members.

(d) STAFF AND OTHER ASSISTANCE.—

(1) IN GENERAL.—The Commission may engage any technical assistance (including actuarial services) required by the Commission to carry out its functions under this section.

(2) ASSISTANCE FROM SECRETARY OF LABOR.—The Secretary of Labor shall provide the Commission with any staff, office facilities, and other assistance, and any data prepared by the Department of Labor, required by the Commission to carry out its functions under this section.

(e) COMPENSATION.—Each member of the Commission—

(1) shall be entitled to receive compensation at the rate of pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission; and

(2) while engaged in the performance of such duties away from such member's home or regular place of business, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title 5 for persons in the Government employed intermittently.

(f) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the President and the Congress a report setting forth the findings and recommendations of the Commission as a result of its evaluation under this section.

(g) TERMINATION.—The Commission shall terminate 2 months after submitting its report pursuant to subsection (f).

TITLE IV—MANUFACTURING REDEVELOPMENT ZONES

SEC. 401. MANUFACTURING REDEVELOPMENT ZONES.

(a) IN GENERAL.—Subchapter Y of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART III—MANUFACTURING REDEVELOPMENT ZONES

"Sec. 1400U-1. Designation of manufacturing redevelopment zones.
"Sec. 1400U-2. Eligibility criteria.
"Sec. 1400U-3. Manufacturing redevelopment tax credit bonds.
"Sec. 1400U-4. Tax-exempt manufacturing zone facility bonds.
"Sec. 1400U-5. Additional low-income housing credits.

"SEC. 1400U-1. DESIGNATION OF MANUFACTURING REDEVELOPMENT ZONES.

"(a) IN GENERAL.—From among the areas nominated for designation under this section, the Secretary may designate manufacturing redevelopment zones.

"(b) LIMITATIONS ON DESIGNATIONS.—The Secretary may designate in the aggregate 24 nominated areas as manufacturing redevelopment zones, subject to the availability of eligible nominated areas. The Secretary shall designate manufacturing redevelopment zones in such manner that the aggregate population of all such zones does not exceed 2,000,000.

"(c) PERIOD DESIGNATION MAY BE MADE.—A designation may be made under subsection (a) only during the 2-year period beginning on the date of the enactment of this section.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) the close of the 10th calendar year beginning on or after the date of the designation,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the Secretary revokes the designation.

"(2) REVOCATION OF DESIGNATION.—The Secretary may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

"(A) has modified the boundaries of the area, or

"(B) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan included with the application

"(e) LIMITATIONS ON DESIGNATIONS; APPLICATION.—Rules similar to the rules of subsections (e) and (f) of section 1391 shall apply for purposes of this section except that the rules of such subsection (f) shall be applied with respect to the eligibility criteria specified in section 1400U-2.

"(f) DETERMINATIONS OF POPULATION.—Any determination of population under this part shall be made on the basis of the most recent decennial census for which data are available.

"SEC. 1400U-2. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—A nominated area shall be eligible for designation under section 1400U-1 only if—

"(1) it meets each of the criteria specified in section 1392(a),

"(2) the nominated area has experienced a significant decline in the number of individuals employed in manufacturing or has a high concentration of abandoned or underutilized manufacturing facilities, and

"(3) no portion of the nominated area is located in an empowerment zone or renewal community, unless the local government which nominated the area elects to terminate such designation as an empowerment zone or renewal community.

"(b) APPLICATION OF CERTAIN RULES; DEFINITIONS.—For purposes of this subchapter—

"(1) rules similar to the rules of subsections (b), (c), and (d) of section 1392 and paragraphs (4), (7), (8), and (9) of section 1393(a) shall apply, and

"(2) any term defined in section 1393 shall have the same meaning when used in this subchapter.

"(c) DISCRETION TO ADJUST REQUIREMENTS.—In determining whether a nominated area is eligible for designation as a manufacturing redevelopment zone, the Secretary may, where necessary to carry out the purposes of this part, waive the requirement of section 1392(a)(4) if it is shown that the nominated area has experienced a loss of manufacturing jobs during the previous 20 years which is in excess of 25 percent.

"SEC. 1400U-3. MANUFACTURING REDEVELOPMENT TAX CREDIT BONDS.

"(a) IN GENERAL.—For purposes of subpart I of part IV of subchapter A (relating to qualified tax credit bonds), the term 'manufacturing redevelopment bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified manufacturing redevelopment purposes,

"(2) the bond is not a private activity bond, and

"(3) the local government which nominated the area to which such bond relates designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) with respect to any manufacturing redevelopment zone shall not exceed $150,000,000.

"(c) QUALIFIED MANUFACTURING REDEVELOPMENT PURPOSE.—For purposes of this section, the term 'qualified manufacturing redevelopment purposes' means capital expenditures paid or incurred with respect to property located in a manufacturing redevelopment zone for purposes of promoting development or other economic activity in such zone, including expenditures for environmental remediation, improvements to public infrastructure, and construction of public facilities.

"(d) DEFINITIONS..—For purposes of this section, any term used in this section which is also used in section 54A shall have the same meaning given such term by section 54A.

"SEC. 1400U-4. TAX-EXEMPT MANUFACTURING ZONE FACILITY BONDS.

"(a) IN GENERAL.—For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue if—

"(1) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for manufacturing zone property, and

"(2) the local government which nominated the area to which such bond relates designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) IN GENERAL.—The aggregate face amount of bonds which may be designated under subsection (a)(2) with respect to any manufacturing redevelopment zone shall not exceed $230,000,000.

"(2) CURRENT REFUNDING NOT TAKEN INTO ACCOUNT.—In the case of a refunding (or series of refundings) of a bond designated under this section, the refunding obligation shall be treated as designated under subsection (a)(2) (and shall not be taken into account in applying paragraph (1)) if—

"(A) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(B) the refunded bond is redeemed not later than 90 days after the date of issuance of the refunding bond.

"(c) LIMITATION ON AMOUNT OF BONDS ALLOCABLE TO ANY PERSON.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any issue if the aggregate amount of outstanding manufacturing zone facility bonds allocable to any person (taking into account such issue) exceeds—

"(A) $15,000,000 with respect to any 1 manufacturing redevelopment zone, or

"(B) $20,000,000 with respect to all manufacturing redevelopment zones.

"(2) AGGREGATE ENTERPRISE ZONE FACILITY BOND BENEFIT.—For purposes of paragraph (1), the aggregate amount of outstanding manufacturing zone facility bonds allocable to any person shall be determined under rules similar to the rules of section 144(a)(10), taking into account only bonds to which subsection (a) applies.

"(d) MANUFACTURING ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'manufacturing zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the manufacturing redevelopment zone took effect,

"(B) the original use of which in the manufacturing redevelopment zone commences with the taxpayer, and

"(C) substantially all of the use of which is in the manufacturing redevelopment zone and is in the active conduct of a qualified business by the taxpayer in such zone.

"(2) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business except that—

"(A) the rental to others of real property located in a manufacturing redevelopment zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

"(3) SPECIAL RULES FOR SUBSTANTIAL RENOVATIONS AND SALE-LEASEBACK.—Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

"(e) NONAPPLICATION OF CERTAIN RULES.—Sections 57(a)(5) (relating to tax-exempt interest), 146 (relating to volume cap), and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any manufacturing zone facility bond.

"SEC. 1400U-5. ADDITIONAL LOW-INCOME HOUSING CREDITS.

"(a) IN GENERAL.—For purposes of section 42, in the case of each calendar year during which the designation of a manufacturing redevelopment zone is in effect, the State housing credit ceiling of the State which includes such manufacturing redevelopment zone shall be increased by the lesser of—

"(1) the aggregate housing credit dollar amount allocated by the State housing credit agency of such State to buildings located in such manufacturing redevelopment zone for such calendar year, or

"(2) the excess of—

"(A) the manufacturing zone housing amount with respect to such manufacturing redevelopment zone, over

"(B) the aggregate increases under this subsection with respect to such zone for all preceding calendar years.

"(b) MANUFACTURING ZONE HOUSING AMOUNT.—For purposes of subsection (a), the term 'manufacturing zone housing amount' means, with respect to any manufacturing redevelopment zone, the product of $20 multiplied by the population of such zone.

"(c) OTHER RULES.—

"(1) CARRYOVERS.—Rules similar to the rules of section 1400N(c)(1)(C) shall apply for purposes of this section.

"(2) RETURNED AMOUNTS.—If any amount of State housing credit ceiling which was taken into account under subsection (a)(1) is returned within the meaning of section 42(h)(3)(C)(iii)—

"(A) such amount shall not be taken into account under such section, and

"(B) such allocation shall cease to be treated as an increase under this subsection for purposes of subsection (a)(2)(B) until reallocated.".

(b) APPLICATION OF WORK OPPORTUNITY TAX CREDIT TO MANUFACTURING REDEVELOPMENT ZONES.—Subparagraphs (A) and (B) of section 51(d)(5) of such Code are each amended by inserting "manufacturing redevelopment zone," after "renewal community,".

(c) CONFORMING AMENDMENTS RELATED TO MANUFACTURING REDEVELOPMENT TAX CREDIT BONDS.—

(1) GENERAL RULES.—Part IV of subchapter A of chapter 1 of such Code (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart I—Qualified Tax Credit Bonds

"Sec. 54A. Credit to holders of qualified tax credit bonds.

"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a manufacturing redevelopment bond (as defined in section 1400U-3) which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) SPECIAL RULES RELATING TO EXPENDITURES.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

"(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

"(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

"(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

"(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

"(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 1400U-3(a)(1).

"(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified

purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

"(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

"(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

"(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

"(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

"(i) such fund is funded at a rate not more rapid than equal annual installments,

"(ii) such fund is funded in a manner that such fund will not exceed the amount necessary to repay the issue if invested at the maximum rate permitted under clause (iii), and

"(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

"(5) MATURITY LIMITATION.—

"(A) IN GENERAL.—An issue shall not be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue exceeds the maximum term determined by the Secretary under subparagraph (B).

"(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

"(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this sec-

tion to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

"(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.".

(2) REPORTING.—Subsection (d) of section 6049 of such Code (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(3) OTHER CONFORMING AMENDMENTS RELATED TO TAX CREDIT BONDS.—

(A) Sections 54(c)(2) and 1400N(l)(3)(B) of such Code are each amended by striking "subpart C" and inserting "subparts C and I".

(B) Section 1397E(c)(2) of such Code is amended by striking "subpart H" and inserting "subparts H and I".

(C) Section 6401(b)(1) of such Code is amended by striking "and H" and inserting "H, and I".

(D) The heading of subpart H of part IV of subchapter A of chapter 1 of such Code is amended by striking "**Certain Bonds**" and inserting "**Clean Renewable Energy Bonds**".

(E) The table of subparts for part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to subpart H and inserting the following new items:

"SUBPART H—NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

"SUBPART I—QUALIFIED TAX CREDIT BONDS.".

(d) CLERICAL AMENDMENT.—The table of parts for subchapter Y of chapter 1 of such Code is amended by adding at the end the following new item:

"PART III—MANUFACTURING REDEVELOPMENT BONDS".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) BOND PROVISIONS.—Sections 1400U-3 and 1400U-4 of the Internal Revenue Code of 1986 (as added by subsection (a)), and the amendments made by subsection (c), shall apply to obligations issued after the date of the enactment of this Act.

(3) WORK OPPORTUNITY TAX CREDIT.—The amendments made by subsection (b) shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

SEC. 402. DELAY IN APPLICATION OF WORLDWIDE INTEREST ALLOCATION.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking "December 31, 2008" and inserting "December 31, 2011".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

I. SUMMARY AND BACKGROUND

PURPOSE AND SUMMARY

The bill, H.R. 3920, as amended, contains sections amending the Trade Act of 1974 to reauthorize trade adjustment assistance, extending trade adjustment assistance to service workers and firms and enhancing the program in a number of other respects, improving the health coverage tax credit established in 2002; creating Manufacturing Redevelopment Zones; and modernizing the unemployment insurance system.

BACKGROUND AND NEED FOR LEGISLATION

Since January 2001, the economy has lost nearly 3 million jobs in the manufacturing sector alone. Today, over 7.1 million people are unemployed, and nearly 1.3 million of those individuals have been unemployed for 6 months or longer. While the U.S. manufacturing sector has been the hardest hit by increased unemployment, the service sector has seen declines as some U.S. service jobs move to low-cost labor markets, such as China, India, and the Philippines.

Fixing U.S. trade policy means first and foremost retaining existing jobs and creating new ones by opening foreign markets and establishing a level playing field for U.S. workers, farmers, and businesses. It also means helping those affected by globalization overcome its challenges and succeed.

Congress created the Trade Adjustment Assistance in 1962 to provide U.S. workers who lose their jobs because of foreign competition with government-funded training and associated income support to enable them to transition to new, good paying jobs. The TAA program has been periodically reauthorized over the last 35 years, and now includes separate programs for workers, firms, and farmers.

While TAA is supposed to provide assistance to those affected by trade and globalization, the program has not kept up with the pace of change and fails to meet the needs of those it was intended to help. For instance, despite the fact that the service sector employs 80% of the American workforce and often faces significant foreign competition, TAA does not cover most service sector workers, including many information technology workers, accountants, and aircraft maintenance crews, all of whom now face substantial competition from abroad. TAA also excludes many manufacturing workers because of illogical eligibility criteria (*e.g.,* a worker whose factory moves to Mexico is guaranteed TAA coverage, while a worker whose factory moves to China is not). TAA is also inadequately funded and, as a result, during periods of economic downturn, eligible dislocated workers are denied access to TAA services. TAA training coverage also has been artificially limited by the Department of Labor and some States' restrictive interpretations of present law. The health coverage tax credit, which was heralded as a major improvement to the program in 2002, has fundamental flaws in its design, and is not being used by the vast majority of people eligible for it, despite a clear need to provide access to affordable health care.

The bill addresses these and many other problems through a complete overhaul of the TAA program. The bill will expand TAA coverage to more workers, and improve their training opportunities and their health care benefits. Additionally, the bill promotes long-needed reforms to the entryway to TAA, the unemployment insurance system, recognizing that all unemployed workers, and not just those whose job loss is attributable to trade and globalization, deserve support in getting back on their feet. Finally, the bill includes a package of tax incentives designed to encourage the redevelopment of communities that have suffered substantial reductions in manufacturing employment.

LEGISLATIVE HISTORY

H.R. 3920, a bill to amend the Trade Act of 1974 to reauthorize trade adjustment assistance, to extend trade adjustment assistance to service workers and firms, and for other purposes was introduced on October 22, 2007, and referred to the House Committee on Ways and Means and, in addition, to the Committees on Education and Labor, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such sections as fall within the jurisdiction of the committee concerned (Both the Committee on Education and Labor and the Committee on Energy and Commerce waived their jurisdiction).

The House Committee on Ways and Means marked up H.R. 3920 on October 24, 2007, and ordered the bill, as amended, favorably reported by a roll call vote, with a quorum present.

II. EXPLANATION OF THE BILL

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

SUBTITLE A—TRADE ADJUSTMENT ASSISTANCE FOR SERVICE SECTOR WORKERS; EXPANSION OF COVERED SHIFTS IN PRODUCTION; EXPANSION OF DOWNSTREAM SECONDARY WORKER ELIGIBILITY (SECS. 101, 102, AND 103 OF THE BILL AND SECS. 221, 222, 223, 247, 282 OF THE TRADE ACT OF 1974 ("THE ACT"))

Group eligibility

PRESENT LAW

Present law extends TAA eligibility to workers in a firm or subdivision of a firm where: (1) a significant number of workers from the firm (or subdivision) has been totally or partially separated (or threatened with such separation); (2) the firm produces "an article;" and (3) there is a connection between the layoffs and trade.

The trade connection may be shown in one of three ways: (1) that increased imports of an article "like or directly competitive" with the article produced by the firm "contributed importantly" to both layoffs and an absolute decline in production/sales; (2) that the workers' firm shifted production to a U.S. free trade agreement partner (*e.g.,* Canada, Mexico, Chile) or regional preference program country (*e.g.,* a beneficiary country eligible for benefits under the African Growth and Opportunity Act); or (3) that the workers' firm shifted production to another country and there has been or

is likely to be an increase in imports of a like or directly competitive article from that country.

Present law extends TAA eligibility to secondary workers (*i.e.,* workers employed by an upstream supplier firm or a downstream firm to a TAA certified firm). These secondary workers must show that they have been adversely affected by the loss of business with the TAA certified firm (the primary firm). Unlike workers at upstream supplier firms, workers at downstream firms are covered only if the primary firm's certification is linked to trade with Canada or Mexico (the Canada/Mexico restriction does not apply to workers at an upstream supplier firm).

Present law requires workers at a firm covered by an International Trade Commission (ITC) injury determination in a trade remedy case to apply for TAA certification in the same way that any other group of workers might.

EXPLANATION OF THE PROVISION

The provision expands TAA eligibility to service sector workers on the same terms as those applied to manufacturing workers (*i.e.,* the workers must be employed by a firm where a significant number of workers have been or are threatened with layoff and there is a connection between the layoffs and trade).

The provision includes requirements that effectively limit TAA eligibility to those service sector workers affected by trade and globalization; specifically, the foreign services must be "like or directly competitive" with U.S. provided services.

The provision also expands the "shift in production" basis for establishing the connection between layoffs and trade by eliminating the requirement that the shift in production be to a U.S. FTA partner (*e.g.,* a North American Free Trade Agreement country) or a U.S. regional preference partner (*e.g.,* an AGOA country). Under the provision, manufacturing and service sector workers whose firm relocates to *any* foreign country may be eligible for TAA. The provision also expands TAA coverage to include workers who lose their jobs because their firm obtains "like or directly competitive" articles or services from a firm in another country on a contract basis. This is also known as "offshore outsourcing."

The provision also expands TAA coverage to public sector service workers. Such workers are eligible for TAA if: (1) a significant number of workers within a public sector agency has been laid off or threatened with layoff; and (2) the public agency has, or is likely to, obtain the services that would have been provided by such workers from a foreign country.

The provision eliminates the requirement for downstream firms that the primary firm's certification be linked to trade with Canada or Mexico. The provision also amends the definition of upstream supplier and downstream producer to include firms that provide services.

The provision provides for automatic group certification under TAA for workers laid off from firms covered by an affirmative injury determination under U.S. anti-dumping, countervailing duty, or safeguard laws.

The provision provides the Secretary of Labor with the authority to use several alternative methods for discerning increased imports of services, and for establishing that offshoring or offshore

outsourcing has occurred. The provision allows the Secretary of Labor to rely on the certifications of customers that comprise 20% of the firm's sales to determine that the customers are obtaining services from overseas. Similarly, in cases where offshoring or offshore outsourcing of articles *or* services is alleged, the Secretary may rely on information provided by the firm or the public agency experiencing the layoff, or customers of the firm in making its eligibility determinations. The Secretary is required to obtain information from the firm or customers when requested by the workers (or other entity) petitioning for TAA coverage. The information must be kept confidential, but can be viewed *in camera* by a court. The alternative methods are non-exclusive and the Secretary may develop additional methods as well.

REASONS FOR CHANGE

Most service sector workers presently are ineligible for TAA for Workers because of a statutory requirement that the workers must have been employed by a firm that produces an "article." Of the 800 TAA petitions denied in FY2006, almost half were denied for this reason. Most of the denied service-related petitions came from two service industries: business services (primarily computer-related) and airport-related services (*e.g.,* aircraft maintenance). In April 2006, the Department of Labor issued a regulation expanding TAA eligibility to software workers, which partially, but not fully, addresses the service worker coverage issue. See GAO Report 07–702.

Under present law, a worker whose firm relocates to China is not necessarily eligible for TAA; such worker must also show that the relocation to China will result in increased exports to the United States. In contrast, a worker whose firm relocates to a country with which the U.S. has a free trade agreement (*e.g.,* Mexico, Israel, Oman) is automatically covered by TAA. The Committee believes that this disparate treatment is illogical, and often results in the worker whose job was outsourced to China not getting TAA benefits (*e.g.,* where the U.S. factory always served an overseas market, the relocation to China would not necessarily result in increased imports back to the United States). (Note: production relocation is often referred to as "offshoring.")

Present law also fails to cover workers whose company closes a domestic operation, and contracts with a foreign company for the goods or services that had been produced here. For example, Airline A laid off a number of its U.S.-based maintenance personnel and began using an independent aircraft maintenance company in Country B. The laid off Airline A personnel are not covered under present law, even though they lost their jobs because of foreign competition.

The Committee also believes that equity requires the TAA eligibility extended to private sector service workers also be extended to similarly-situated public sector service workers.

The Committee believes that present law can lead to disparate treatment of workers from firms covered by an International Trade Commission injury determination in a trade remedy case (*i.e.,* antidumping, countervailing duty, or safeguard actions). Automatic certification in such cases is appropriate. In these trade remedy cases, the ITC is specifically determining whether imports are causing in-

jury to a domestic industry, and are looking at the impact of imports on employment in a domestic industry. *See e.g.,* Sec. 771(B) and (C) of the Tariff Act of 1930. The ITC's analysis covers criteria similar to those used in determining TAA eligibility and is therefore sufficient for establishing group eligibility under TAA.

Data on imports, especially imports of services, are not always readily available. The Committee therefore believes that the Secretary of Labor should consider alternative methods to show that service sector firms are trade-impacted so that they are not unfairly precluded from accessing TAA because of data limitations. Similarly, alternatives to current law for meeting offshoring and outsourcing eligibility requirements are needed because increased imports may not occur as a result of either (*i.e.*, a company that offshores its production to Vietnam exports to the Asian market and not back to the U.S.). The legislation does not preclude the Secretary from using other methods as well.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Determination of the Secretary of Labor

PRESENT LAW

Existing law makes a worker ineligible for TAA if that worker lost his job 6 months prior to the effective date of the subsection. The "effective date" at issue is the enactment of the 2002 Trade Act.

EXPLANATION OF PROVISION

The provision strikes the language in existing law making a worker ineligible for TAA, if that worker lost his job 6 months prior to the effective date of the subsection.

REASON FOR CHANGE

This is a technical correction.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Monitoring

PRESENT LAW

Present law requires the Secretaries of Commerce and Labor to establish and maintain a program to monitor imports of articles into the United States, including: (1) information concerning changes in import volume, (2) impacts on domestic production, impacts on domestic employment in industries producing like or competitive products. Summaries must be provided to the Adjustment Assistance Coordinating Committee, the U.S. International Trade Commission (ITC), and Congress.

EXPLANATION OF PROVISION

The provision is renamed "Trade Monitoring and Data Collection." The provision requires the Secretaries of Commerce and

Labor to monitor imports of services (in addition to articles). To address data limitations, the provision requires the Secretary of Labor to collect data on impacted service workers (by State, industry, and cause). Finally, it requires the Secretary of Commerce, in consultation with the Secretary of Labor, to report to Congress on ways to improve the timeliness and coverage of data regarding trade in services.

REASON FOR CHANGE

Existing data on trade in services are sparse. Because of the increases in trade in services, the Committee believes that it is critical that the government collect data on imports of services and the impact of these imports on U.S. workers. Such information will be useful when considering any further refinement of TAA that Congress may contemplate. More generally, the additional data will give U.S. businesses and workers insight into trade in services, helping them better compete in the global marketplace. Finally, to reflect better the nature of the provision, its name is changed.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

SUBTITLE B—INDUSTRY-WIDE TRADE ADJUSTMENT ASSISTANCE (SECS. 111–114 OF THE BILL AND SECS. 223, 224, 225, 231, OF THE ACT)

Industry-wide determinations

PRESENT LAW

Present law requires workers to seek certification on a firm-firm basis; there is no industry-wide certification procedure.

EXPLANATION OF THE PROVISION

The provision requires the Secretary of Labor to conduct an industry-wide certification investigation when either: (1) three petitions from firms in the same industry are certified within a 6-month period; or (2) if the President, or the United States Trade Representative, or the House Ways and Means Committee, or the Senate Finance Committee requests the Secretary to conduct such an investigation.

The investigation is to determine whether all workers in an industry or alternatively, all workers in an industry within a specific geographic region, should be eligible for TAA. Industries are defined using the North American Industry Classification system.

The Secretary must make an eligibility determination within 60 days of certifying the third petition or receiving a request/resolution.

Once a determination is made, the Secretary must identify all the firms covered by the determination. All workers of the identified firms are eligible to apply for TAA without the need for any additional group eligibility determination.

Industry-wide certifications must include an impact date, but that date cannot be more than a year before the industry-wide investigation request, nor can it be more than a year before the date the Secretary certifies the third petition. Workers who lost their

jobs before the impact date are ineligible for TAA under the industry-wide certification.

In the case of affirmative determinations, the Secretary of Labor shall notify the Governor(s) of the State(s) in which workers eligible for TAA under the determination are located.

In the case of a negative determination, the Secretary of Labor must notify Committee on Ways and Means and Senate Finance Committee of the reasons for the decision. A summary of each industry-wide determination must be promptly published in the Federal Register and on the Website of the Department of Labor, along with the reasons underlying the determination.

The Secretary has the authority to terminate an industry-wide determination when the certification is no longer warranted and shall have the termination published promptly in the Federal Register and on the Website of the Department of Labor. Workers losing their jobs after the termination date shall not be eligible for TAA under the industry-wide certification.

The Secretary must issue regulations for making industry-wide determinations within one year of enactment of the reauthorization TAA.

REASONS FOR CHANGE

The Committee believes that the firm-by-firm certification process can be inefficient, and can lead to delayed and inconsistent results, with some workers who lose their jobs receiving the TAA benefits they deserve, while others down the street do not. The industry-wide determination is likely to increase the number of workers eligible for TAA. According to GAO, between 2003 and 2005, 222 industries—out of 515 industries with at least one TAA certification—met the criteria of 3 petitions certified in 180 days. (GAO 07–919). The Committee believes that such circumstances justify an industry-wide certification mechanism. Because issues have been raised with respect to industry-wide certification, including what criteria to apply to determine whether an entire industry should be certified and how to identify all firms in a certified industry, the Committee believes it is important for the Department of Labor to work with the Committee and other stakeholders to develop criteria for industry-wide determinations.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Notifications regarding affirmative determinations and safeguards

PRESENT LAW

Present law includes a provision requiring the ITC to notify the Secretary of Labor when it begins a section 201 global safeguard investigation. The Secretary must then begin an investigation of (1) the number of workers in the relevant domestic industry and (2) whether TAA will help such workers adjust to import competition. The Secretary of Labor must submit a report to the President within 15 days of the ITC's 201 determination. The Secretary's report shall be made public and a summary shall be printed in the Federal Register.

EXPLANATION OF THE PROVISION

The provision also instructs the ITC to notify the Secretary of Labor and the Secretary of Commerce when it issues an affirmative determination of injury/threat thereof under sections 201 or 421 of the Trade Act of 1974 or sections 705 or 735 of the Tariff Act of 1930 and identify all firms that comprise the domestic industry. Whenever an injury determination is made, the Secretary of Labor must notify employers, workers and unions of firms covered by the trade remedy of the workers' potential eligibility for TAA for Workers and provide them with assistance in filing petitions. Similarly, the Secretary of Commerce must notify firms covered by the trade remedy of their potential eligibility for TAA for Firms and provide them with 7 assistance in filing petitions. Finally, to better reflect its nature, as amended, the provision renames the section, "Notifications Regarding Affirmative Determinations and Safeguards."

REASONS FOR CHANGE

A significant hurdle to ensuring that workers and firms avail themselves of TAA's benefits is the lack of awareness about the program. In situations like these, where the ITC has made a determination that a domestic industry has been injured as a direct result of trade, giving notice to the workers and firms in that industry of TAA's potential benefits is warranted.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Restriction on eligibility for program benefits

PRESENT LAW

Present law precludes an immigrant from receiving unemployment compensation on the basis of work performed, unless the immigrant is an individual who was lawfully admitted for permanent residence at the time the work was performed, was lawfully present for purposes of performing that work, or was permanently residing in the United States under color of law at the time the work was performed. Because the unemployment insurance system is the requisite gateway to TAA income support eligibility, an immigrant who is ineligible for UI on these grounds necessarily would also be ineligible for TAA.

EXPLANATION OF THE PROVISION

This provision prohibits undocumented workers from receiving any TAA benefits, including income support, employment services, or training.

REASONS FOR CHANGE

The Committee believes it is important to affirm undocumented workers' ineligibility for TAA benefits.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

SUBTITLE C—PROGRAM BENEFITS (SECS. 121–131 OF THE BILL AND SECS. 231–237 OF THE ACT)

Notification of the Secretary of Commerce

PRESENT LAW

Under present law, the Secretary of Labor must provide workers with information about TAA and provide whatever assistance is necessary to help petitioners apply for TAA. The Secretary must also reach out to State Vocational Education Boards and their equivalent agencies, as well as other public and private institutions, about affirmative group certification determinations and projections of training needs.

The Secretary must also notify each worker who the State has reason to believe is covered by a group certification in writing via U.S. Mail of the benefits available under TAA. If the worker lost his job before group certification, then the notice occurs at the time of certification. If the worker lost her job after group certification, then the notice occurs at the time the worker loses her job. The Secretary must also publish notice in the newspapers circulating in the area where the workers reside.

EXPLANATION OF PROVISION

The provision requires the Secretary of Labor, upon issuing a certification (including an industry-wide certification), to notify the Secretary of Commerce of the identity of the firms covered by a certification.

REASON FOR CHANGE

Firms employing workers certified as eligible for TAA benefits may not be aware that they may be eligible for assistance under the TAA for Firms program. Requiring the Secretary of Labor to notify the Secretary of Commerce when workers at a firm are certified as TAA eligible will help put these firms on notice of their potential TAA for Firms eligibility. This issue arose during informal discussions between the Committee and the Department of Commerce, which administers the TAA for Firms program.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Qualifying requirements for workers

PRESENT LAW

Present law authorizes a worker to receive TAA income support (known as "Trade Readjustment Allowance" or "TRA") for weeks of unemployment that begin 60 days after the date of filing the petition on which certification was granted.

To qualify for TAA benefits, a worker must have: (1) lost his job on or after the trade impact date identified in the certification; and within two years of the date of the certification determination; (2) been employed by the TAA certified firm for at least 26 of the 52 weeks preceding the layoff; and (3) earned at least $30 or more a week in that employment.

A worker must qualify for, and exhaust, his State unemployment compensation (UC) benefits before receiving a weekly TRA.

Further, to receive TRA, a worker must be enrolled in an approved training program by the later of: 8 weeks after the TAA petition was certified, or 16 weeks after job loss (the "8/16" deadline). The "8/16" deadline can be extended in certain limited circumstances. Workers may also receive limited waivers of the "8/16" training enrollment deadline.

Current law provides for waivers in circumstances: (1) the worker has been or will be recalled by the firm; (2) the worker possesses marketable skills; (3) the worker is within 2 years of retirement; (4) the worker cannot participate in training because of health reasons; (5) training enrollment is unavailable; or (6) training is not reasonably available to the worker (nothing suitable, no reasonable cost, no training funds).

Waivers last 6 months, unless the Secretary determines otherwise, and will be revoked if the basis for the waiver no longer exists. States have the authority to issue waivers. By regulation, State and local agencies must "review" the waivers every thirty days.

If a worker failed to begin training or has stopped participating in training without justifiable cause or if the worker's waiver is revoked, the worker will receive no income support until the worker begins or resumes training.

EXPLANATION OF PROVISION

The provision amends existing law to change the date on which a worker can receive TAA income support from 60 days from the date of the petition to the date of certification.

The provision strikes the "8/16" rule and extends the deadline for trade-impacted workers. If a worker lost his job before the certification, then the worker has 26 weeks from the date of certification to enroll in training. If the worker lost his job after certification, he has 26 weeks from the date he lost his job to enroll in training.

The provision also gives the Secretary the authority to waive the new 26 week training enrollment deadline if a worker was not given timely notice of the deadline.

The provision clarifies that the "marketable skills" training waiver may apply to workers who have post-graduate degrees from accredited institutions of higher education, such as universities covered under section 101(a) of the Higher Education Act.

The provision requires the Secretary to authorize States to issue limited training waivers. It also amends the waiver length rules and stipulates that such waivers last for 3 months, but that States may renew them for an additional 3 months, if needed.

It requires that all determinations of eligibility for TAA should be made by State employees appointed on a merit basis.

REASON FOR CHANGE

The Committee believes that the 60-day rule makes little sense and leads to the following scenario: a worker laid off well before certification could exhaust his unemployment insurance and yet have to wait to receive the trade readjustment assistance to which the worker was otherwise entitled.

The Government Accountability Office, the Department of Labor, the States, and workers' advocacy groups have criticized the 8/16 deadline as being too short. First, these deadlines often occur while the worker is still on traditional UI (most workers receive up to 26 weeks of State UI compensation). During those 26 weeks, most workers are actively engaged in a job search and are not focused on retraining. Forcing workers to enroll in training at such an early stage can discourage active job search. Second, typically, a worker decides to consider training only after an extended period of unsuccessful job searching. Under present law, workers are only beginning to consider training options close to the 8/16 deadline, and often make hurried decisions about training merely to preserve their TAA eligibility. Third, when large numbers of certified workers are laid off all at once, it can be difficult for TAA administrators to perform adequate training assessments and meet the 8/16 deadline. *See* GAO Report 04–1012.

While recognizing the necessity of waivers in certain circumstances, some States have complained that the sheer volume of waivers that needs to be processed is burdensome. For example, according to GAO, 59,375 waivers were issued in 2005 (and 60,948 in 2004). The Committee believes that providing a longer length of time for the waivers, along with the extension of the training enrollment deadline, will reduce the number of waivers and should ease the associated administrative burden.

When a worker has failed to meet the training enrollment deadline through no fault of his own, the Committee believes that there should be redress. Under present law, there is none. The Department of Labor has acknowledged that this is a problem.

The Committee believes that merit-based State employees should make decisions about individual worker TAA eligibility because such decisions rest largely on whether the worker is eligible for unemployment insurance (UI) and basic UI eligibility determinations are made by State Employment Security Agency (ESA) merit staff. This provision also affirms the importance of ESAs in delivering these federal benefits as well as the historical connection between UI, Wagner-Peyser Employment Services, and TAA.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Weekly amounts; Limitations on trade readjustment allowances, allowances for extended training and breaks in training

PRESENT LAW

TRA is the income support that workers receive weekly. It is equal to the worker's weekly UI benefit. TRA is divided into two main periods: "Basic TRA" and "Additional TRA."

Basic TRA is available for 52 weeks minus the number of weeks of unemployment insurance for which the worker was eligible (usually 26 weeks). Basic TRA must be used within 104 weeks after the worker lost his job (130 weeks for workers requiring remedial training). Any Basic TRA not used in that period is forgone.

Additional TRA is available for up to 52 more weeks if the worker is enrolled in and participating in training. The worker receives Additional TRA only for weeks in training. A worker on an ap-

proved break in training of 30 days or less is considered to be participating in training and therefore eligible for TRA during that period. Additional TRA must otherwise be used over a consecutive period (*e.g.*, 52 consecutive weeks).

Participation in remedial training makes a worker eligible for up to 26 more weeks of TRA.

Under present law, because of how State UI laws operate, workers in training and working part-time run the risk of resetting their UI benefits (and their TRA benefit) at the lower part-time level which would leave them with insufficient income support to continue with training.

Under present law, a worker is not eligible for additional TRA payment if the worker has not applied for training 210 days from certification or job loss, which ever is later.

EXPLANATION OF PROVISION

The provision amends existing law to: (1) disregard, for purposes of determining a worker's weekly trade readjustment allowance amount, earnings where the worker is working part-time and participating in full-time training; and (2) ensure that workers will retain the amount of income support provided initially under TRA even if a new UI benefit period (with a lower weekly amount) is established due to the worker obtaining part-time or short-term full-time employment.

The provision also increases the number of weeks a worker can receive additional TRA from 52 to 78 and expands the time in which a worker can receive Additional TRA from 52 weeks to 91 weeks.

The provision states that periods during which an administrative or judicial appeal of a negative determination will not be counted when calculating a worker's eligibility for TRA. Moreover, the provision also grants justifiable cause authority to the Secretary to extend certain applicable deadlines concerning receipt of Basic and Additional TRA. Justifiable cause may include a worker's failure to receive timely information, delays in certification associated with appeals, and justifiable breaks in training (*e.g.,* health problems).

The provision also strikes the 210 day rule, which mandates that a worker is not eligible for additional TRA payment if the worker has not applied for training 210 days from certification or job loss, whichever is later.

REASON FOR CHANGE

The Committee believes that the disincentive to combining full-time training and part-time work needs to be removed so that workers who might not otherwise be in training, but for the additional income they earn working part-time are not excluded from the program.

The Committee extended the period of Additional TRA to promote longer-term training. The Committee notes that many popular and effective training programs for high-demand occupations, such as nursing, require 2–4 years to complete, at a minimum. More time is required if remedial or prerequisite classes are necessary. As such, the Committee believes that the present amount of income support is inadequate to allow workers to complete valuable training programs, such as nursing, which are likely to lead

to re-employment at good wages. In addition, because the enrollment deadline has been extended to 26 weeks, this change ensures that workers actively engaged in a job search are not penalized subsequently when they enter training. The Committee notes that the additional 26 weeks, and all Additional TRA, are provided only if the worker is in training (and thus in need of the extended income support to complete training).

The Committee believes that the 30-day limitation on breaks in training lacks needed flexibility and may preclude workers from participating in the most suitable training and completing that training. By allowing for expanded breaks, workers will have more training options, including completion of a degree at a college or university that has a three to four month summer break, as many do. It also ensures that health problems and family emergencies requiring a break in training do not unfairly preclude an enrollee from completing that training.

The Committee believes that tolling of deadlines is necessary; otherwise judicial relief obtained from a successful court challenge would be meaningless, as the decision of the court will inevitably take place after the TAA program eligibility deadlines have passed. The Department of Labor provides for similar tolling in its present and proposed regulations.

Similarly, the Committee believes that affording the Secretary flexibility in instances where a worker is ineligible through no fault of her own is consistent with the spirit of the program and will help ensure workers get the retraining they need to secure good paying jobs.

The 210 day deadline is a left over NAFTA–TAA rule and has no operative effect, given the 8/16 deadline and the requirement that a worker be in training to receive additional TRA.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Application of State laws and regulations on good cause for waiver of time limits or late filing of claims.

PRESENT LAW

A State's unemployment insurance laws apply to a worker's claims for TRA.

EXPLANATION OF PROVISION

The provision makes a State's "good cause" law applicable when the State is making determinations concerning a worker's claim for TRA or other adjustment assistance.

REASON FOR CHANGE

Most States have "good cause" laws allowing the waiver of a statutory deadline when the deadline was missed solely because of agency error. These good cause laws apply to administration of State UI laws. The Department of Labor, by regulation, has precluded application of State good cause laws to TAA. This prohibition unjustifiably penalizes workers who miss a deadline through no fault of their own.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Employment and case management services

PRESENT LAW

Present law requires the Secretary of Labor to make "every reasonable effort" to secure services for affected workers covered by a certification including "counseling, testing, and placement services" and "[s]upportive and other services provided for under any other Federal law," including WIA one-stop services. Typically, the Secretary provides these services through agreements with the States.

EXPLANATION OF PROVISION

This provision requires the Secretary and the States to, among other things: (1) perform comprehensive and specialized assessments of enrollees' skill levels and needs; and (2) develop individual employment plans for each impacted worker and provide enrollees with (a) information on available training, (b) information on individual counseling to determine which training is suitable, and (c) information on how to apply for such training. The provision also requires the Department of Labor and the States to provide TAA program participants with short-term prevocational services and individual career counseling before, during, and after they obtain new jobs.

REASON FOR CHANGE

Present law does not define the level of employment or case management services to be provided to TAA eligible workers, nor does it require that those services be delivered to them. Moreover, present law does not provide sufficient funding to provide TAA eligible workers with adequate case management. As a result, States are relying on overly-stretched Wagner-Peyser funds to provide case management. States are also co-enrolling TAA workers in WIA, which can lead to TAA covered workers not receiving the benefits for which they are eligible. (WIA focuses on rapid reemployment and short-term training.) By defining in detail the type of employment and case management services to which TAA workers are entitled and mandating that Department of Labor provide these services (and by providing more funding to help cover the cost of providing them, *see infra*), these problems can be addressed.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Training

PRESENT LAW

Under present law, the Secretary shall approve training if: (1) there is no suitable employment; (2) the worker would benefit from appropriate training; (3) there is a reasonable expectation of employment following training (although not necessarily immediately available employment); (4) the approved training is reasonably available to the worker; (5) the worker is qualified for the training;

and (6) training is suitable and available at a reasonable cost. "Insofar as possible," the Secretary is supposed to ensure the provision of training on the job. Training will be paid for directly by the Secretary or using vouchers.

The total amount of training funding is $220,000,000. During the year, if the Secretary determines that there is inadequate funding to meet the demand for training, the Secretary has the authority to decide how to apportion the remaining funds to the States.

Based on internal department policy, at the beginning of each fiscal year, the Department of Labor allocates 75% of the training funds to States based on each State's training expenditures and the average number of training participants over the previous 2½ years. The previous year's allocation serves as a floor. The Department of Labor also has a "hold harmless" policy that ensures that each State's initial allocation can be no less than 85% of its previous year's initial allocation. The Department of Labor holds the remaining 25% in reserve to distribute to States throughout the year according to need; most of the funds are disbursed on the last day of the fiscal year. States have 3 years to spend their federal funds. If the funds are not spent, the money reverts back to the General Treasury.

If the costs of a worker's training are paid for by the Secretary under TAA, no other federal program may pay for the training. Similarly, the Secretary cannot pay for training if another federal program has paid for the training or if the training expenses are reimbursable under federal law, and a portion of the costs have already been paid pursuant to that law. But funds paid under another federal program that do not directly cover the costs incurred in training a worker, even if they indirectly reduce the overall costs involved, do not preclude the Secretary from paying for training under TAA. Current law allows some cost sharing between federal government programs, and the federal government and other nonfederal sources.

EXPLANATION OF PROVISION

The provision strikes the obsolete requirement that the Secretary of Labor shall "assure the provision" of on the job training.

The provision lifts the Department of Labor prohibition on TAA participants using personal resources to fund training programs that extend beyond normal program eligibility.

The provision increases the training cap from $220,000,000 to $440,000,000 in FY2008 and FY2009, and increases the cap to $660,000,000 in FY2010.

The provision requires that the Secretary develop a new allocation formula for dividing federal training funds among the States within 120 days of enactment. The Committee and the Senate Finance Committee must be consulted at least 60 days before the new formula is implemented.

In developing the new allocation formula, the Secretary must consider a broad range of factors when making distributions, including: (1) the number of workers certified in the previous year; the number of workers enrolled in training; (2) the minimum level of funding needed to provide approved training; (3) WARN and other layoff notifications; and (3) tying the non-initial distributions of training funds to whether the State requested such funds.

The provision also directs the Secretary of Labor to provide for multiple disbursements of funds and ensure that the final distribution of the fiscal year is before July 1 and, if necessary, develop a system for recapture and redistribution of unused training funds.

The provision also instructs GAO to study the new allocation procedures and issue an interim report reviewing the first fiscal year the procedures are implemented and a final report reviewing the first three fiscal years the new procedures are in effect.

REASON FOR CHANGE

The Committee believes that while on the job training ("OJT") is an option that workers should be able to take advantage of, it should not be the Secretary's default training placement. Moreover, the Department of Labor has stated that it does not endeavor to provide OJT "[i]nsofar as possible."

Prohibiting TAA participants from contributing to the costs of their training precludes workers from enrolling in courses that may extend beyond the normal 2-year period covered by TAA. The Committee believes that lifting this prohibition is needed to broaden workers' training options. However, States should not use this new rule to reduce the amount of funds that the States will provide a worker for training, nor to obligate workers to contribute funds towards their training.

The Committee believes that the training cap needs to be increased for two reasons. First, more funding is needed to cover the expanded group of TAA eligible workers because of changes made elsewhere in the bill (*e.g.,* coverage of service workers, more manufacturing workers). Second, during high periods of TAA usage, the existing training funding is not sufficient. States have, at times, run out of training funds, resulting in some States freezing enrollment of eligible workers in training (*See* GAO–04–1012).

As the GAO has documented, there are significant problems with the Department of Labor's method of allocating training funds. The primary problem is that the Department of Labor's method of allocation appears to result in insufficient funds for some States. This appears to be occurring because of the Department of Labor's reliance on historical usage and a "hold harmless" policy. In particular, States that were experiencing heavy layoffs at the time the initial allocation formula was implemented may no longer be experiencing layoffs at the same rate, but still receive significant allocations from the Department of Labor. In contrast, a State 15 experiencing relatively few layoffs several years ago may now have far greater numbers of layoffs, but still receives a limited amount in its distribution. In short, the allocation that States receive at the beginning of the fiscal year does not reflect States' present demand for training services. Misallocation of training funds among States also appears to be exacerbated by the Department of Labor's practice of holding back a significant amount of training funds and distributing the balance on the last day of the fiscal year, without regard to need (*i.e.,* the Department of Labor distributes end of the year money to all States, even those that have spent less than 1% of the present fiscal year's allocation).

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Prerequisite education, approved training programs

PRESENT LAW

Approvable training includes: employer-based training (on the job training/customized training); training approved under the Workforce Investment Act of 1998; training approved by a private industry council; any remedial education program; any training program whose costs are paid by another federal or State program; and any other program approved by the Secretary. Additionally, remedial training is approvable and participation in such training makes a worker eligible for up to 26 more weeks of TAA-related income support.

EXPLANATION OF PROVISION

The provision clarifies that existing law allows training funds to be used to pay for training at an accredited institution of higher education, such as those covered by 101(a) of the Higher Education Act, including training to obtain or complete a degree or certification program (where completion of the degree or certification can be reasonably expected to result in employment).

The provision also offers up to an additional 26 weeks of income support while workers take prerequisite classes necessary to enter training. However, a worker who has received additional income support while participating in remedial training is ineligible for this income support while participating in prerequisite training.

REASON FOR CHANGE

Present law does not explicitly state whether TAA training funds may be used to obtain a college or advanced degree. Some States have interpreted this silence to preclude enrollment in a two-year community college or four-year college or university as a training option, even where a TAA participant was working towards completion of a degree prior to being laid off. So, some workers have been denied use of training funds at institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965). The Committee believes that States should be encouraged to approve the use of training funds by TAA enrollees to obtain a college or advanced degree, including degrees offered at two-year community colleges and four-year colleges or universities.

While a worker can obtain additional income support while participating in remedial training, there is no corollary support for workers participating in prerequisite training (*e.g.,* individuals enrolling in nursing usually need basic science prerequisites, which are not considered qualifying remedial training). States have requested providing additional income support for workers who participate in prerequisite training.

The Committee also believes that while WIA-approved training is an approvable TAA training option, it should not be the only one that TAA enrollees are authorized to pursue. The Committee is concerned that some States have restricted training opportunities to those approved under WIA. According to the Congressional Research Service, many community colleges, for instance, do not get WIA certification because of its costly reporting requirements. To limit TAA training opportunities in this way unacceptably curbs

the scope of training that TAA enrollees might elect to participate in and potentially impairs their ability to get retrained and reemployed.

The provision does not, however, prohibit States from approving training. In fact, the Committee believes that States should closely evaluate training programs and institutions to ensure federal funds are well spent.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Eligibility for unemployment insurance and program benefits while in training

PRESENT LAW

Current law states that a worker may not be deemed ineligible for UI (and thus, TAA), if they are in training or leave unsuitable work to enter training.

Other than stating that on the job training is approvable TAA training, there is nothing in current law setting forth the rules and requirements concerning such training.

EXPLANATION OF PROVISION

The provision states that a worker will not be ineligible for UI or TAA if the worker: (1) is in training, even if the worker does not meet the requirements of availability for work, active work search, or refusal to accept work under Federal and State UI law; or (2) leaves work to participate in training, including temporary work during a break in training.

The provision also reinforces the fact that OJT needs to be suitable OJT: OJT reasonably expected to lead to employment, that is compatible with the workers' skills, and that includes a State-certified benchmark-based curriculum.

REASON FOR CHANGE

The Committee is concerned that confusion in present UI law surrounding a worker's decision to quit work to enter training and the ramifications of that decision from a UI eligibility perspective may preclude a worker from being able to participate in TAA training.

The Committee is also concerned that present law lacks adequate guidelines making it clear that OJT must be suitable to qualify under TAA and thus the OJT option is vulnerable to abuse by employers interested in the payment they receive and little else. As a result, some OJT experiences have left workers with inadequate training and skills to obtain good paying reemployment.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Administrative costs and case management funding

PRESENT LAW

Present law does not provide for separate funding for States to administer TAA. However, the Department of Labor and Congress

have customarily provided States with administrative funds equal to 15% of the training allocation they receive.

EXPLANATION OF PROVISION

The provision codifies the present practice and authorizes that each State receive funds equal to 15% of its training funding allocation to cover administrative expenses, including the processing of waivers and the collection of data, and for providing case management and employment services. The provision also provides an additional amount of funding to each State that is equal to .06% of the total training cap (*e.g.,* $440,000,000 in 2008) for case management and employment services.

The provision requires that funds provided to cover administrative expenses in excess of the amount provided in FY2007 as well as the .06% payment must be administered by merit based staff. The Committee believes that the latter stream of funding should be in addition to, and not offset, any funds that the State would otherwise receive under WIA or any other program.

REASON FOR CHANGE

States incur costs to administer the TAA program, including for processing applications and providing employment and case management services. While appropriators provide these funds out of custom, the Committee believes that this practice should be codified.

The Committee believes that these funds have not been enough to ensure that there are adequate TAA human resources in place to provide affected workers with the employment and case management services they are entitled to and deserve. To bolster the TAA case management and employment services, the Committee believes that additional funding is needed. Moreover, to give States the predictability they need to make staffing decisions, it should be a fixed amount, disconnected from the training allocation each State gets.

The Committee directed that new funding under this provision be dedicated to State merit staff. That requirement is intended to shore up the State ESAs that traditionally have administered TAA. Restoring the administration of TAA to ESAs is important to ensure that TAA funds are leveraged with other funds provided to ESAs, including under the Wagner Peyser Act, and to maintain the important programmatic connections between TAA and the unemployment insurance and employment services programs.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Job search and relocation allowances

PRESENT LAW

The Secretary may grant an application for a job search allowance where: (1) the allowance will help the totally separated worker find a job in the United States; (2) local employment is not available; (3) the application is filed by the later of (a) 1 year from separation, (b) 1 year from certification, or (c) 6 months after completing training (unless the worker received a waiver). A worker

may be reimbursed for 90% of his job search costs, up to $1,250. Allowances for subsistence and transportation must conform to those allowed under Sec. 236(b)(1) and (2).

The Secretary may grant an application for relocation allowance where: (1) the allowance will assist a totally separated worker relocate within the United States; (2) local employment is not available; (3) the affected worker has no job at the time of relocation; (4) the worker has found suitable employment that should be of long-term duration; (5) has a bona fide offer of employment; (6) filed the application the later of (a) 425 days from separation, (b) 425 days from certification, or (c) 6 months after completing training (unless the worker received a waiver). A worker may be reimbursed for 90% of his relocation costs, up to $1,250.

EXPLANATION OF PROVISION

The provision reimburses 100% of a worker's job search expenses, up to $1500, and 100% of a worker's relocation expenses, up to $1500. It also strikes the exception in existing law precluding a worker who received a waiver from job search allowance and relocation allowance eligibility.

REASON FOR CHANGE

The Committee believes that the job search and relocation allowances need to be increased to reflect the cost of inflation and the cost and difficulty a worker faces when looking for work and taking a job outside the worker's local community.

The Committee believes that the waiver eligibility exception was unintentionally included with the 2002 amendments to TAA. It is an unduly harsh rule; a worker who receives a waiver should still be eligible for these allowances, so that the worker can obtain assistance needed to get re-trained and re-employed in good paying jobs.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

SUBTITLE D—HEALTH CARE PROVISIONS (SECS. 141 OF THE BILL AND SECS. 35, 7527, AND 9801 OF THE INTERNAL REVENUE CODE OF 1986; SECS. 172, 173 OF THE WORKFORCE INVESTMENT ACT OF 1998; SEC. 701 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AND SEC. 2701 OF THE PUBLIC HEALTH SERVICE ACT)

Modify the Health Coverage Tax Credit

PRESENT LAW

In general

The Trade Act of 2002[1] established a refundable tax credit that pays 65 percent of the cost of qualified health insurance premiums for eligible individuals and their spouse and dependents. The credit, commonly referred to as the health coverage tax credit ("HCTC"), is available on an advance basis.

[1] Pub. L. No. 107–210 (2002).

Eligibility for the credit is determined on a monthly basis. In general, an eligible coverage month is any month if, as of the first day of the month, the taxpayer (1) is an eligible individual, (2) is covered by qualified health insurance, (3) does not have other specified coverage, and (4) is not imprisoned under Federal, State, or local authority.[2] In the case of a joint return, the eligibility requirements are met if at least one spouse satisfies the requirements.

An eligible individual is an individual who is (1) an eligible TAA recipient, (2) an eligible alternative TAA recipient, or (3) an eligible Pension Benefit Guaranty Corporation ("PBGC") pension recipient.

An individual is an eligible TAA recipient during any month if the individual is receiving for any day of such month a trade readjustment allowance[3] or would be eligible to receive such an allowance but for the requirement that the individual exhaust unemployment benefits. Eligibility for the credit extends for one month after TAA eligibility ends.

An individual is an eligible alternative TAA recipient during any month if the individual (1) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and (2) is receiving a benefit for such month under section 246(a)(2) of such Act. An individual is treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient.

An individual is a PBGC pension recipient for any month if he or she (1) is age 55 or over as of the first day of the month, and (2) is receiving a benefit any portion of which is paid by the PBGC. The IRS has interpreted the definition of PBGC pension recipient to also include certain alternative recipients and recipients who have received certain lump-sum payments on or after August 6, 2002.

An otherwise eligible taxpayer is not eligible for the credit for a month if, as of the first day of the month, the individual has other specified coverage. Other specified coverage is (1) coverage under any insurance which constitutes medical care (other than insurance for excepted benefits)[4] where at least 50 percent of the cost of the coverage is paid by an employers[5] (or former employer) of the individual or his or her spouse, or (2) coverage under certain governmental health programs. Specifically, an individual is not eligible for the credit if, as of the first day of the month, the individual is

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[2] An eligible month must begin after November 4, 2002. This date is 90 days after the date of enactment of the Trade Act of 2002, which was August 6, 2002.

[3] Part I of subchapter B, or subchapter D, of chapter 2 of title II of the Trade Act of 1974. Among other requirements, payment of a trade readjustment allowance is conditioned upon the individual enrolling in certain training programs or receiving a waiver of training requirements.

[4] Excepted benefits are: (1) coverage only for accident or disability income or any combination thereof; (2) coverage issued as a supplement to liability insurance; (3) liability insurance, including general liability insurance and automobile liability insurance; (4) worker's compensation or similar insurance; (5) automobile medical payment insurance; (6) credit-only insurance; (7) coverage for on-site medical clinics; (8) other insurance coverage similar to the coverages in (1)–(7) specified in regulations under which benefits for medical care are secondary or incidental to other insurance benefits; (9) limited scope dental or vision benefits; (10) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (11) other benefits similar to those in (9) and (10) as specified in regulations; (12) coverage only for a specified disease or illness; (13) hospital indemnity or other fixed indemnity insurance; and (14) Medicare supplemental insurance.

[5] An amount is considered paid by the employer if it is excludable from income. Thus, for example, amounts paid for health coverage on a salary reduction basis under an employer plan are considered paid by the employer. A rule aggregating plans of the same employer applies in determining whether the employer pays at least 50 percent of the cost of coverage.

(1) entitled to benefits under Medicare Part A, enrolled in Medicare Part B, or enrolled in Medicaid or SCHIP, (2) enrolled in a health benefits plan under the Federal Employees Health Benefit Plan, or (3) entitled to receive benefits under chapter 55 of title 10 of the United States Code (relating to military personnel). An individual is not considered to be enrolled in Medicaid solely by reason of receiving immunizations.

A person is not an eligible individual if he or she may be claimed as a dependent on another person's tax return. A special rule applies with respect to alternative TAA recipients. For eligible alternative TAA recipients, an individual has other specified coverage if the individual is (1) eligible for coverage under any qualified health insurance (other than coverage under a COBRA continuation provision, State-based continuation coverage, or coverage through certain State arrangements) under which at least 50 percent of the cost of coverage is paid or incurred by an employer of the taxpayer or the taxpayer's spouse, or (2) covered under any such qualified health insurance under which any portion of the cost of coverage is paid or incurred by an employer of the taxpayer or the taxpayer's spouse.

Qualified health insurance

The credit can only be applied toward qualified health insurance, which is defined as (1) COBRA continuation coverage, (2) State-based continuation coverage provided by the State under a State law that requires such coverage, (3) coverage offered through a qualified State high risk pool, (4) coverage under a health insurance program offered to State employees or a comparable program, (5) coverage through an arrangement entered into by a State and a group health plan, an issuer of health insurance coverage, an administrator, or an employer, (6) coverage offered through a State arrangement with a private sector health care coverage purchasing pool, (7) coverage under a State-operated health plan that does not receive any Federal financial participation, (8) coverage under a group health plan that is available through the employment of the eligible individual's spouse, and (9) coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date the individual became separated from the employment which qualified the individual for the TAA allowance, the benefit for an eligible alternative TAA recipient, or a pension benefit from the PBGC, whichever applies.[6]

Qualified health insurance does not include any State-based coverage (i.e., coverage described in (2)–(7) in the preceding paragraph), unless the State has elected to have such coverage treated as qualified health insurance and such coverage meets certain requirements.[7] Such State coverage must provide that each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs eligibility certificate and pays the remainder of the premium.

[6] For this purpose, "individual health insurance" means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

[7] For guidance on how a State elects a health program to be qualified health insurance for purposes of the credit, see Rev. Proc. 2004–12, 2004–1 C.B. 528.

In addition, the State-based coverage cannot impose any pre-existing condition limitation with respect to qualifying individuals. State-based coverage cannot require a qualifying individual to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not a qualified individual. Finally, benefits under the State-based coverage must be the same as (or substantially similar to) benefits provided to similarly situated individuals who are not qualifying individuals. A qualifying individual is an eligible individual who seeks to enroll in the State-based coverage and who has aggregate periods of creditable coverage[8] of three months or longer, does not have other specified coverage, and who is not imprisoned. In general terms, creditable coverage includes health care coverage without a gap of more than 63 days. A qualifying individual also includes qualified family members of an eligible individual who is a qualifying individual.

Qualified health insurance does not include coverage under a flexible spending or similar arrangement or any insurance if substantially all of the coverage is for excepted benefits.

Other rules

Amounts taken into account in determining the credit may not be taken into account in determining the amount allowable under the itemized deduction for medical expenses or the deduction for health insurance expenses of self-employed individuals. Amounts distributed from a medical savings account or health savings accounts are not eligible for the credit. The amount of the credit available through filing a tax return is reduced by any credit received on an advance basis. Married taxpayers filing separate returns are eligible for the credit; however, if both spouses are eligible individuals and the spouses file separate returns, then the spouse of the taxpayer is not a qualifying family member.

The Secretary of the Treasury is authorized to prescribe such regulations and other guidance as may be necessary or appropriate to carry out the provision.

REASONS FOR CHANGE

The Committee is aware that only a small percentage of those eligible for the HCTC actually use the credit and that the administrative costs associated with administering the credit are high in proportion to the delivered benefit. The Committee believes that the current HCTC structure is flawed and that it is appropriate to set a deadline for establishing a replacement program to ensure increased health coverage by those receiving TAA and PBGC benefits. Until a replacement program is established, the Committee believes that it is appropriate to increase the amount of the credit and to make other improvements to the credit to encourage greater participation. The Committee plans to use the findings of the GAO study required by the provision to enact substantial reforms to this benefit by January 1, 2010.

The provision makes three changes to reduce the cost of HCTC coverage: (1) increases the credit from 65 percent to 85 percent; (2)

[8] Creditable coverage is determined under the Health Insurance Portability and Accountability Act. Sec. 9801(c).

allows the credit to be applied to premiums paid between separation from employment and HCTC eligibility; and (3) requires insurers to charge premiums that reflect HCTC enrollees.

The Government Accountability Office (GAO) found that high cost was the most commonly cited barrier to participating in the HCTC. Increasing the premium subsidy to 85 percent will enable more individuals and families to afford the cost of continuing coverage. Given that the average employer contribution is 72 percent for families and 84 percent for individuals, increasing the credit to 85 percent at a time when income has dropped substantially will enable more workers harmed by trade policy to receive health benefits.

Approval to receive the HCTC can take several months, during which time eligible individuals must either pay the full cost of their insurance premiums or become uninsured. Under current law, HCTC-eligible individuals who maintain insurance coverage must bear the full cost of their premiums. Allowing the HCTC to be applied retroactively for eligible individuals enrolled in qualified insurance will help alleviate this financial burden.

Current law purports to protect against discriminatory premiums, but loopholes have permitted unacceptable price gouging for qualified HCTC plans in some states. Restricting premiums by imposing a rating requirement for HCTC policies that reflects the experience of the HCTC population will equalize premiums across the HCTC population and ensure that coverage is more affordable. It will also hold insurers accountable for being good stewards of taxpayer resources.

The provision also makes several important changes to minimize gaps in insurance coverage: (1) eliminating the training requirement for individuals receiving unemployment insurance; (2) clarifying creditable coverage requirements; and (3) allowing continued participation in HCTC after certain events.

The requirement in existing law that a TAA enrollee be in training before the enrollee is eligible for the HCTC fails to consider the fact that many workers do not immediately enroll in training. Instead, they often use the time they are receiving UI to actively look for a job. Only after exhausting their UI do they enroll in training. Tying the HCTC to participation in training therefore unnecessarily restricts the availability of the benefit to the workers it was designed to assist.

Under current law, individuals who are eligible for HCTC may only qualify for the consumer protections (guaranteed issue, no preexisting condition exclusions, and same benefits and premiums for similarly situated individuals) if they have maintained three months of continuous coverage and have enrolled in a qualified plan within 63 days of losing coverage. Because delays in the certification and application approval process can take months, it is not unusual for an individual to experience a gap in coverage under these rules, thus forcing the individuals to maintain unsubsidized coverage or face being uninsured and be subjected to medical underwriting once they qualify for HCTC. The bill corrects this by eliminating the three month continuous coverage requirement and clarifying that tolling toward the 63-day lapse in coverage shall not begin until five days after the postmark date of the notice by the Secretary that the individual is approved for TAA benefits, and

thus eligible to enroll in a qualified health plan. PBGC recipients have 90 days to enroll in coverage in order to receive consumer protections. The bill preserves the current law requirement that the individual had coverage at the time of separation.

Under current law, spouses and dependents of HCTC recipients lose their coverage if a divorce occurs or if the eligible individual qualifies for Medicare or dies. The bill employs the precedent established by COBRA that allows spouses and their dependent children to retain eligibility for the HCTC for up to 36 months in the event one of these situations occurs.

EXPLANATION OF PROVISION

In general

The provision sunsets the health coverage tax credit and makes several other modifications.

Increase in credit percentage amount

The provision increases the amount of the credit to 85 percent of the taxpayer's expenses for qualified health insurance for the taxpayer and qualifying family members.

Elimination of training requirement for individuals receiving unemployment compensation

The provision modifies the definition of an eligible TAA recipient by eliminating the requirement that individuals receiving unemployment compensation be enrolled in training.

Eligibility made retroactive to TAA-related loss of employment

Under the provision, in the case of an individual who is an eligible TAA recipient or eligible alternative TAA recipient for any month, such individual is treated as an eligible individual for any month preceding the month that begins after the later of (1) the date of separation from employment which gives rise to the individual being an eligible TAA recipient or eligible alternative TAA recipient, or (2) December 1, 2007.

Continued qualification of family members after certain events

The provision provides continued eligibility for the credit for qualifying family members if the eligible individual (1) becomes entitled to Medicare, (2) is divorced, or (3) dies. Such treatment applies for the first 36 months after the event. In the case of the finalization of a divorce, the only qualifying family members that may be taken into account with respect to the spouse are those individuals who were qualifying family members immediately before such divorce finalization.

Modification of creditable coverage requirement

The provision eliminates the three-month requirement of creditable coverage in order for consumer protections to apply to State-based coverage. Under the provision, in order for the consumer protections to apply in the case of an eligible TAA recipient or an eligible alternative TAA recipient, the individual must have a period of creditable coverage.

In the case of an eligible PBGC pension recipient, for the consumer protections to apply, the individual must enroll in the qualifying coverage during the 90-day period beginning on the later of (1) the last day of the first month that the individual becomes an eligible PBGC pension recipient or (2) the date of enactment. Under the provision, the Secretary of the Treasury must carry out a program to notify individuals prior to their becoming eligible PBGC pension recipients of this new requirement.

Rules for determining lapse in creditable coverage

Under the provision, in determining if there has been a 63-day lapse in coverage, in the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is five days after the postmark date on the notice by the Secretary (or by any person designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate (under section 7527) is not taken into account.

Rating system requirement for certain State-based coverage

The provision adds an additional requirement to State-based coverage. Under the provision, in the case of coverage through an arrangement entered into by a State and an issuer of health insurance, premiums for such coverage must be restricted based on a community rating system with respect to eligible individuals and their qualifying family members, or based on a rate-band system under which the maximum rate charged must not exceed 150 percent of the standard rate with respect to eligible individuals and their qualifying family members.

GAO study

The provision requires the Comptroller General of the U.S. to conduct a study regarding the HCTC to be submitted to Congress no later than March 31, 2009. The study is to include an analysis of (1) the administrative costs of the Federal government with respect to the credit and the advance payment of the credit and of providers of qualified health insurance with respect to providing such insurance to eligible individuals and their families, (2) the health status and relative risk status of eligible individuals and qualified family members covered under such insurance, (3) participation in the credit and the advance payment of the credit by eligible individuals and their qualifying family members, including the reasons why such individuals did or did not participate and the effects of the provision on participation, and (4) the extent to which eligible individuals and their qualifying family members obtained health insurance other than qualifying insurance or went without insurance coverage. The provision provides the Comptroller General access to the records within the possession or control of providers of qualified health insurance if determined relevant to the study. The Comptroller General may not disclose the identity of any provider of qualified health insurance or eligible individual in making information available to the public.

Sunset of tax credit program

Under the provision, the credit is not available for any month beginning after December 31, 2009, except in the case of an individual who was an eligible individual for a continuous period of months ending with such month and beginning before such date.

EFFECTIVE DATE

The provision is effective for months beginning after the December 31, 2007.

The provision relating to the rating system requirement for certain State-based coverage is effective for months beginning after March 31, 2008.

For purposes of carrying out the advance payment program, the provision allows the Secretary of the Treasury to waive certain requirements for one or more months beginning after March 31, 2008, to the extent that the Secretary determines that such delay is necessary to properly implement the provision as part of the advance payment program. This rule applies to modification of the training requirement, eligibility made retroactive to TAA-related loss of employment, and continued qualification of family members after certain events.

SUBTITLE E—WAGE INSURANCE (SEC. 151 OF THE BILL AND SEC. 246 OF THE ACT)

Reemployment trade adjustment assistance program for older workers.

PRESENT LAW

The Trade Act of 2002 created a demonstration project for alternative trade adjustment assistance for older workers (ATAA or "wage insurance"). Through this program, some workers who are eligible for Trade Adjustment Assistance (TAA) and reemployed at lower wages may receive a partial wage subsidy. Under the program, States use Federal funds provided under The Trade Act of 1974 to pay eligible workers up to 50 percent of the difference between reemployment wages and wages at the time of separation. Eligible workers may not earn more than $50,000 in reemployment wages, and total payments to a worker may not exceed $10,000 during a maximum period of two years.

In addition to having been certified for TAA, such workers must be at least 50 years of age, obtain full-time reemployment with a new firm within 26 weeks of separation from employment, and have been separated from a firm that is specifically certified for ATAA. When considering certification of a firm for ATAA, the Secretary of Labor considers whether a significant number of workers in the firm are 50 years of age or older and possess skills that are not easily transferable. ATAA beneficiaries are limited from all TAA benefits except for the Health Coverage Tax Credit (HCTC). This program is set to expire on December 31, 2007.

EXPLANATION OF PROVISION

This provision eliminates the current-law requirement that a worker must find employment within 26 weeks of being laid off to be eligible for the wage insurance benefit. It replaces it with a re-

quirement that the clock on the two-year duration of the benefit begin at the sooner of exhaustion of regular unemployment benefits or reemployment, allowing initial receipt of the wage insurance benefit at any point during that two-year period.

The provision eliminates a requirement that firms (in addition to individuals) be specifically certified for wage insurance in addition to TAA certification.

The provision increases the limit on wages in eligible reemployment from $50,000 a year to $60,000 a year. Similarly, it increases the maximum wage insurance benefit (over two years) from up to $10,000 to up to $12,000.

The provision lifts the restriction on wage insurance recipients' participation in TAA-funded training. It also permits workers reemployed less than full-time, but at least 20 hours a week, and in approved training, to receive the wage insurance benefit (which would be prorated if the worker is reemployed for fewer hours compared to previous employment).

REASONS FOR CHANGE

The Committee believes that the ATAA, or wage insurance, program is a potentially beneficial option for many older workers, but it includes unnecessary barriers to participation. The Committee believes that changes to section 246 of the Trade Act will make the wage insurance program a more viable option for many more potentially interested workers. Inflation has lessened the maximum value of the wage insurance benefit and lowered the real value of the maximum earnings permitted for eligibility. Several other requirements make the program inaccessible and unattractive.

Findings from the Government Accountability Office (GAO) highlight the need to reform specific aspects of the program. First, the 26–week reemployment deadline was cited by the GAO as one of "two key factors [that] limit participation." The GAO went on to note,

> ". . . Officials in States [the GAO] visited said that one of the greatest obstacles to participation was the requirement for workers to find a new job within 26 weeks after being laid off. For example, according to officials in one State, 80 percent of participants who were seeking wage insurance but were unable to obtain it failed because they could not find a job within the 26–week period. The challenges of finding a job within this time frame may be compounded by the fact that workers may actually have less than 26 weeks to secure a job if they are laid off prior to becoming certified for TAA. For example, a local caseworker in one State [the GAO] visited said that the 26 weeks had passed completely before a worker was certified for the benefit."

Second, the GAO found that automatically certifying workers for the wage insurance benefit would cut the Department of Labor's workload and promote program participation.

> ". . . in fiscal year 2006, nearly 90 percent of TAA-certified petitions were also certified for the wage insurance benefit. Labor officials said that eliminating this step in the TAA certification process—that is, allowing any TAA-

> certified workers who meet the individual eligibility criteria for the wage insurance benefit to participate—would decrease the agency's investigation workload somewhat and may increase participation in the wage insurance benefit."

Currently, workers opting for wage insurance currently must also surrender eligibility for TAA-funded training and be reemployed full-time.

The Committee believes that eliminating the 26-week deadline for reemployment, eliminating the need for firms to be certified for wage insurance, eliminating the prohibition on wage insurance beneficiaries receiving TAA-funded training, and allowing part-time workers access to the wage insurance benefit should make the wage insurance program more accessible and attractive.

EFFECTIVE DATE

This provision is effective upon enactment.

SUBTITLE F—OTHER MATTERS (SEC. 161–168 OF THE BILL AND SEC. 239, 243, 245, 249, 284, 285, 298 OF THE ACT)

Agreements with States

PRESENT LAW

Present law gives the Secretary of Labor the authority to delegate to the States through agreements many aspects of TAA implementation, including responsibilities to (1) receive applications for TAA and provide payments; (2) perform employment services and case management activities; (3) issue waivers. It also mandates that any agreement entered into shall include sections requiring that the provision of TAA services and training shall be coordinated with the provision of Workforce Investment Act (WIA) services and training. In carrying out its responsibilities, each State shall: notify workers who apply for UI about TAA; facilitate early filing for TAA benefits; advise workers to apply for training when they apply for TRA; and interview affected workers as soon as possible for purposes of getting them into training. States must also submit to the Department of Labor information like that provided under a WIA State plan.

EXPLANATION OF PROVISION

This provision incorporates the level of employment and case management services to be provided to TAA eligible workers specified in a provision in the bill, to ensure that they get the assistance to which they are entitled.

REASON FOR CHANGE

To ensure that TAA enrollees get the level of employment and case management services to which they are entitled, the Committee believes that it is necessary to incorporate those obligations into the agreements that the Department of Labor enters into with each of the States concerning the administration of TAA.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Fraud and recovery of overpayments

PRESENT LAW

An overpayment may be waived if, in accordance with the Secretary's guidelines, the payment was made without fault on the part of such individual, and requiring such repayment would be contrary to "equity and good conscience."

EXPLANATION OF PROVISION

The provision states that repayment shall be waived if the overpayment was made without fault on the part of such individual and if repayment "would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual or household and other ordinary living expenses of the individual or household."

REASON FOR CHANGE

The Committee believes that the Department of Labor has adopted a very strict standard for issuing overpayment waivers. In particular, 20 CFR Sec. 617.55(a)(2)(ii)(C) defines equity and good conscience to require "extraordinary and lasting financial hardship" that would "result directly" in the "loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial period of time" and "may be expected to endure for the foreseeable future." TAA administrators have told the Committee that they know of no worker who has met this strict waiver standard. In including standard statutory waiver language in TAA, there is no indication that Congress intended to make waivers impossible to secure. To the contrary, the Committee believes that intended that overpaid individuals without fault and unable to repay their TAA overpayments would have a reasonable opportunity for waivers of those overpayments. This amendment therefore conforms the law to Congress's intent.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Office of Trade Adjustment Assistance

PRESENT LAW

The TAA for Workers program is currently operated by the Employment and Training Administration at the Department of Labor.

EXPLANATION OF PROVISION

The provision creates an Office of Trade Adjustment Assistance, headed by a Senate-confirmed Deputy Assistant Secretary of Labor who will be responsible for overseeing implementation of the TAA for Workers program and carrying out functions delegated by the Secretary of Labor, including: making group certification determinations; providing TAA information and assisting workers and

others prepare petitions; ensuring covered workers receive Sec. 235 employment and case management services; ensuring States comply with the terms of their Sec. 239 agreements; advocating for workers applying for assistance; receiving workers' complaints and grievances; and, operating a hotline that workers and employers may call with questions about TAA benefits, eligibility requirements, and application procedures.

REASON FOR CHANGE

It is the view of the Committee that creating an Office of Trade Adjustment Assistance in the Department of Labor with primary accountability for the management and performance of the TAA for Workers program will improve the program's operation. By requiring that the individual running that office be confirmed by the Senate, accountability and oversight of the individual who serves as the Deputy Assistant Secretary for TAA and the TAA program as a whole will be enhanced.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Collection of data and reports; information to workers

PRESENT LAW

TAA does not contain statutory language requiring the collection of data or performance goals and the TAA program has suffered a history of problems with its performance data that has undermined the data's credibility and limited their usefulness. Most of the outcome data reported in a given program year actually reflects participants who left the program up to 2 years earlier. In addition, as of FY 2006, the Department of Labor does not consistently report TAA data by State or industry or by services or benefits received.

While the Department of Labor has take some steps aimed at improving performance data, the data remain suspect and fail to capture outcomes for some of the program's participants, and many participants are not included in the final outcomes at all.

EXPLANATION OF PROVISION

Within 90 days of enactment, the Secretary of Labor must implement a system for collecting data on all workers who apply for or receive TAA. The system must include the following data classified by State, industry, and nationwide totals: number of petitions; number of workers covered; processing time for each petition; a breakdown of certified petitions by the cause of job loss (increased imports etc.); number of workers in any aspect of TAA; reemployment rates/sectors after receiving TAA; the type of TAA received (training etc.); number receiving each type of assistance; average duration of time workers receive each type; fields of training/education in which workers enroll; the number of workers participating in each field, classified by major types; the number of workers failing to complete a course of training or education, classified by the cause; the number of training waivers granted, classified by type of waiver; and wages before separation and any job obtained after receiving TAA benefits. Within 16 months of enactment, the

Secretary of Labor must submit a report on whether changes to eligibility requirements, benefits, or training funding should be made based on the data collected. Those data must be made available to the public on the Department of Labor's website in a searchable format and must be updated quarterly.

REASON FOR CHANGE

The Committee believes that valuable information on TAA and its impact is neither being collected nor being made publicly available. This, in turn, inhibits the ability of Congress to perform its oversight responsibilities and, if necessary, to refine and improve the program. Additionally, the Committee believes that all of the data that the Department of Labor gather should be made available and posted on its website in a searchable format. This will enhance the accountability of the TAA program and the Department of Labor, not just to Congress, but to the American people as well.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Extension of TAA for Workers and TAA for Farmers Programs

PRESENT LAW

The authorization of the TAA for Workers program expires on December 31, 2007. The authorization and the appropriation for the TAA for Farmers program expire on December 31, 2007.

EXPLANATION OF PROVISION

The provision reauthorizes the TAA for Workers program through September 30, 2012. The provision reauthorizes the TAA for Farmers through September 30, 2012 at $81,000,000 for the 9-month period beginning on January 1, 2008, and $90,000,000 for each of the fiscal years 2009 through 2012.

REASON FOR CHANGE

The Committee believes that in an era of increasing trade and globalization, TAA is needed now more than ever to ensure that Americans obtain the skills and knowledge they need to obtain good paying jobs and contribute to the strength and competitiveness of the U.S. economy.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Judicial review

PRESENT LAW

Present law authorizes workers, farmers, and firms to file appeals of a denial of a petition within 60 days of notice of the denial in the Court of International Trade (CIT). The Secretary's findings of fact, if supported by substantial evidence, shall be conclusive. For good cause, the CIT can remand a case to the Department of Labor to take further evidence and resubmit it. The CIT can affirm the Department of Labor's action or set it aside. Judgments are re-

viewable by the United States Court of Appeals for the Federal Circuit and the United States Supreme Court.

EXPLANATION OF PROVISION

The provision amends existing law to require that the Secretary's findings of fact be supported by substantial evidence and based on a reasonable investigation. The provision gives the Court of International Trade the authority to remand a case so that further evidence can be taken, *or* reverse the action of the Secretary. If upon remand, the Secretary submits new or modified findings, they must be supported by substantial evidence and be based on a reasonable investigation.

REASON FOR CHANGE

The Court of International Trade has documented the Department of Labor's failure to investigate cases properly, which has led to delays in affected workers receiving TAA. These delays have serious consequences for the workers whose certification petitions are denied. The Committee believes that by requiring that the Department of Labor's findings of fact be supported by substantial evidence and based on a reasonable investigation, the Department of Labor is more likely to do a thorough investigation of the worker's petition. And by giving the CIT the authority to reverse negative determinations and certify group petitions, the time it takes to fix an erroneous denial of certification would be decreased.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Liberal construction of certification of workers and firms

PRESENT LAW

There is nothing in present law regarding how TAA is to be interpreted.

EXPLANATION OF PROVISION

The provision states that the TAA provisions concerning workers and firms shall be liberally construed in favor of certifying workers and firms for trade adjustment assistance.

REASON FOR CHANGE

TAA is designed to help those adversely impacted by trade and globalization. In this spirit, the Committee believes that TAA statute should not be administered in such a way that it seeks to weed out eligible applicants; rather, it should be working to provide access to TAA's benefits for all those who are entitled to them.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

(SECS. 201–204 AND SECS. 251, 256, 261, 265, 266 OF THE ACT.)

Trade adjustment assistance for firms

PRESENT LAW

A firm may file a petition for certification with the Secretary of Commerce. Upon receipt of the petition, the Secretary shall publish notice in the Federal Register that the petition has been received and is being investigated. The petitioner, or anyone else with a substantial interest, may request a public hearing concerning the petition.

To be certified, a firm must show: (1) a "significant" number of workers became or are threatened to become totally or partially separated; and sales or production of an article, or both, decreased absolutely; or sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely; and increased imports of competing articles "contributed importantly" to the decline in sales, production, and/or workforce.

A firm certified under Sec. 251 has two years in which to file an adjustment assistance application, which must include an economic adjustment proposal.

In deciding whether to approve an application, the Secretary of Commerce must conclude that the proposal: (1) is reasonably calculated "to materially contribute" to the economic adjustment of the firm; (2) gives adequate consideration to the interests of the firm's workers; and (3) demonstrates that the firm will use its own resources for adjustment.

The Secretary must make its decision with 60 days.

EXPLANATION OF PROVISION

The provision makes service sector firms potentially eligible for TAA for Firms. It also expands the look back so that all firms can use three years' worth of data, as opposed to one year, to show that the firm's sales, production, or both, have decreased absolutely or that the firm's sales, production or both of an article or service that accounts for at least 25% of its total production or sales have decreased absolutely.

The provision clarifies that in evaluating whether a significant number of workers is threatened with total or partial separation, the Secretary of Commerce shall consider demonstrably adverse trends, like unused production capacity, a significant profitability decline, or a significant market share decline.

In determining whether there have been increased imports, the provision makes it clear that the Secretary may use data from any of the three preceding calendar years when determining and may determine that increased imports exist if customers accounting for a significant percentage of the decline certify that they are buying imports. The Secretary may also take into consideration the fact that a firm petitioning for certification is in an industry where imports make up a large portion of the market, making it more difficult to show increased imports.

The provision also requires the Secretary to obtain information from the customers when requested by the firm petitioning for TAA coverage. The information must be kept confidential, but can be viewed *in camera* by a court.

Additionally, the provision requires the Secretary of Commerce, upon receiving notice from the Secretary of Labor that the workers of a firm are TAA-covered, to notify that firm of its potential TAA eligibility.

REASON FOR CHANGE

Most service sector firms currently are ineligible for TAA for Firms because of a statutory requirement that the workers must have been employed by a firm that produces an "article." In an era when 80% of U.S. workers are employed in the service sector, the Committee believes that service sector firms should be eligible for TAA.

The Committee also notes that firms have complained that the limited "look back" under existing law unfairly restricted their ability to show that increased imports were hurting their businesses and that the look back in existing law is inconsistent with the timeframe used in antidumping and countervailing duty cases.

Because it can be difficult to show increased imports of services due to a lack of data, the Committee believes it is necessary to provide for an alternative way to demonstrate TAA eligibility. One way to do so is by allowing customers of the firm that are responsible for a significant percentage of the sales decline to certify that they are buying imports. Similarly, it is important to give the Secretary the authority to consider the fact that some firms work in industries heavily impacted by imports, when making certification determinations.

The Administration has pointed out that a firm may not know that it could be TAA eligible, despite the fact that workers at the same firm have qualified for the TAA for Workers program. Like the Administration, the Committee believes that it is important to give these firms notice of their potential eligibility for TAA's benefits, so that they can take advantage of the program to more effectively meet the challenges of the global marketplace.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Extension of authorization of trade adjustment assistance for firms

PRESENT LAW

The authorization of the TAA for Firms program expires on December 31, 2007. The program is currently authorized at $16 million per year.

EXPLANATION OF PROVISION

This provision reauthorizes the program through September 30, 2012, and increases its funding to $50,000,000 a year. Of that amount, $350,000 is set aside to fund full-time TAA for Firms positions at the Department of Commerce.

REASON FOR CHANGE

The Committee believes that the TAA for Firms program is under funded—currently, at least $15 million in approved projects lack funding. Additionally, the Firms team at the Department of Commerce lacks adequate full-time staffing to administer the program.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Industry-wide programs for the development of new services

PRESENT LAW

Present law authorizes the Secretary of Commerce to provide technical assistance for the establishment of industry-wide programs for new product development, new process development, export development and other uses. The technical assistance can go to groups and associations in which a substantial number of workers or firms have been certified for TAA.

EXPLANATION OF PROVISION

This provision adds language authorizing the Department of Commerce to establish programs relating to services, reflecting the expansion of TAA coverage to the service sector. The provision also makes groups and associations eligible for technical assistance if a substantial number of workers in the group or association has received industry-wide certification.

REASON FOR CHANGE

This is conforming amendment.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

Demonstration project on strategic trade transformation assistance

PRESENT LAW

Under current law, there are no TAA of Firms demonstration projects or pilots authorized.

EXPLANATION OF PROVISION

The provision establishes a three-year demonstration project within the Trade Adjustment Assistance (TAA) for Firms program. The demonstration project will promote seven primary goals, including expanding the number of firms able to participate in the program without expending more money, integrating the benefits of other government programs with TAA for Firms, increasing exports of small and medium sized firms, and helping small and medium sized firms secure government contracts. The project would give preference to existing Trade Adjustment Assistance Centers (TAACs) for the administration of the project. Following the project, the Secretary of Commerce would be required to submit a report addressing: the impact of the project on mitigating the impact of imports in terms of competitiveness, and the cost-effective-

ness of extending or expanding the project. Up to $1,000,000 per year is authorized to be spent on the demonstration project.

REASON FOR CHANGE

The TAA for Firms program is operated by regional Trade Adjustment Assistance Centers (TAACs). These centers are at the heart of the program's ability to deliver creative solutions to problems inhibiting firms' competitiveness. To allow these centers of excellence to develop, better ways to enhance the competitiveness of American employers, save American jobs before they are lost, and maximize the resources allocated to the program, in coordination with the Secretary, a demonstration project is needed. The Committee believes that the demonstration project must be conducted in close coordination with all of the existing Teaks and must complement the underlying TAA for Firms program.

EFFECTIVE DATE

The provision goes into effect on the date of enactment.

TITLE III—UNEMPLOYMENT INSURANCE

(SEC. 301–304 OF THE BILL AND SEC. 903 OF THE SOCIAL SECURITY ACT OF 1935 (42 U.S.C. 1103)) AND SEC. 3301 OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C. 3301))

Special Transfers to State accounts of the Unemployment Trust Fund

PRESENT LAW

Section 903 of the Social Security Act describes particular circumstances under which money is transferred to eligible State unemployment accounts from the employment security 35 administration account, extended unemployment compensation account and the Federal unemployment account when these account balances exceed certain levels. Such transfers of excess funds in the federal portion of the Unemployment Trust Fund to State accounts are called Reed Act distributions.

EXPLANATION OF PROVISION

This provision would amend section 903 of the Social Security Act by providing up to $7 billion in additional funds to States' accounts within the Unemployment Trust Fund (UTF) as "modernization incentive payments" for including certain policies in State law. Funds would be distributed to the State UTF accounts based on the State's share of estimated federal unemployment taxes (excluding reduced credit payments) paid by the State's employers. One-third of a State's maximum payment would be contingent on the State law either, using a base period that includes the most recently completed calendar quarter before the start of the benefit year for the purposes of determining eligibility for Unemployment Compensation (UC), or providing that, in case of an individual who would not otherwise be eligible for UC under State law, eligibility shall be determined using a base period that includes such a calendar quarter. The remainder of the maximum payment would be

contingent on State law containing at least two of the following three provisions:

1. No denial of UC under State law sections relating to availability for work, active search for work, or refusal to accept work solely because such individual is seeking only part-time work. States may exclude an individual if the majority of the weeks of work in such individual's base period do not include part-time work.

2. No disqualification from regular UC for separation if it is for compelling family reasons. These reasons must include (i) domestic violence, (ii) illness or disability of an immediate family member, and (iii) the need to accompany a spouse to a place from where it is impractical to commute and is due to a change in location of the spouse's employment.

3. Weekly UC continues to individuals who have exhausted all rights to regular and extended UC but are enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998. The benefit extension must be for at least an additional 26 weeks and be equivalent to the previously calculated UC benefit.

States must submit applications for incentive payments. The Secretary of Labor may use regulations to determine compliance with the proposed law. States must be eligible for certification under section 303 of the Social Security Act and under section 3304 of the Federal Unemployment Tax Act.

States may use the incentive payments received only for payment of UC benefits. However, by following existing law sections in Section 903(c)(2), excluding subparagraph (B), of the Social Security Act, a State legislature's specific appropriation may allow a State to use this money for administration of its unemployment compensation law and public employment offices.

The Secretary of Labor must reserve $7 billion for incentive payments in the federal unemployment account (FUA) of the UTF.

Section 302 also would increase the total amount for transfer to States for administrative purposes under 903(a) of the Social Security Act by $100 million in each of the fiscal years 2008 through 2012. Funds would be distributed to the State UTF accounts based on the State's share of estimated federal unemployment taxes made by the State's employers.

Any advances made to the State account will be first credited against, and operate to reduce, any additional amount transferred to the State account due to these $100 million transfers.

Any additional amount transferred to a State account as a result of these $100 million transfers may be used by the State agency of such State only in (i) the payment of expenses incurred by it by carrying out of the purposes in State law required to receive the incentive payments, (ii) improved outreach to individuals who might be eligible for regular UC by virtue of the changes in State law, (iii) the improvement of unemployment benefit and unemployment tax operations, and (iv) staff-assisted reemployment services for UC claimants.

The funds for these payments shall be taken out of the employment security administration account (ESAA).

REASON FOR CHANGE

The Committee believes that the Unemployment Insurance (UI) system provides critical support that helps unemployed workers and their families avoid dire economic circumstances. The decrease in the share of unemployed workers receiving UI benefits, from 50% in the 1950s to just 35% today has weakened both its ability to smooth income and consumption for unemployed workers and its ability to act as an effective macroeconomic stabilizer during weaker economic conditions.

The Government Accountability Office (GAO) recently testified that low-wage workers (those earning roughly less than $9 an hour) were only about one-third as likely to receive unemployment benefits compared to higher wage workers even though they were much more likely to be unemployed. The GAO found this inequity was at least partly due to Unemployment Insurance (UI) eligibility rules, "particularly rules in many States that do not count workers" most recent earnings toward their minimum earnings required for eligibility."

Additionally, the GAO found low levels of UI receipt among part-time workers, despite the fact that UI taxes are paid on their behalf. Again, the GAO pointed to UI eligibility rules in certain States as limiting access to benefits. Finally, GAO reviewed changes in the labor market since the unemployment insurance program was established over 70 years ago, most notably the significant increase in the number of women in the workforce.

In response to these findings, as well as to the recommendations made in the mid–1990s by the bipartisan Advisory Council on Unemployment Compensation, the bill would reward and encourage States for implementing specific policies designed to remove barriers to jobless workers accessing needed benefits. There are no new federal mandates on States contained in the legislation; only financial incentives. All of the reforms proposed by the bill have already been successfully implemented in at least a few and in some cases many States.

The Committee notes that many of the reforms supported by the new incentive payments would particularly help women, who are more likely to be employed in part-time and/or low-wage jobs, as well as more likely to need to leave work for compelling family reasons, such as domestic violence, taking care of a sick or disabled child, and following a spouse whose job has moved. Increasing the share of the unemployed receiving UI would simultaneously increase UI's effectiveness in helping workers and families involuntarily and temporarily unemployed and enhance UI's macroeconomic countercyclical stabilizing role.

EFFECTIVE DATE

This provision is effective upon enactment.

Extension of FUTA tax

PRESENT LAW

Section 3301 of the Internal Revenue Code specifies the standard employer excise tax that finances the Federal share of Unemployment Insurance (UI) expenses, as well as Employment Services.

This section, in combination with section 3302(b) of the Internal Revenue Code of 1986, results in an effective Federal tax rate of 0.8 percent on the first $7,000 of wages for each employee for employers in States with unemployment compensation laws certified under section 3304 of the Internal Revenue Code of 1986. That rate is scheduled to decrease to 0.6 percent, beginning in Calendar Year 2008. The 0.2 percentage point difference between what the rate is scheduled to fall to (0.6 percent) and the current law rate (0.8 percent) is called the Federal Unemployment Tax Act Surtax (FUTA Surtax). While the FUTA Surtax has been scheduled to expire multiple times over the past 30 years, Congress has consistently extended it.

EXPLANATION OF PROVISION

This provision would maintain the 6.2 percent unemployment insurance excise tax rate on the first $7000 in wages through 2010, thus extending the 0.2 percent FUTA Surtax through 2010.

REASONS FOR CHANGE

The Committee believes that extending the FUTA Surtax for a few years will fund much needed modernization reforms in State UI systems as well as help maintain the solvency of the Federal Unemployment Trust Fund. President Bush's proposed FY 2008 budget recommends extending the 30–year old FUTA surtax to "support the continued solvency of the Federal unemployment trust funds and maintain the ability of the unemployment system to adjust to any economic downturns." The modest FUTA Surtax equals a maximum of $14 per worker, per year.

EFFECTIVE DATE

This provision is effective upon enactment.

Safety Net Review Commission

PRESENT LAW

There is no present law that is modified or directly amended by this provision.

EXPLANATION OF PROVISION

This would establish a Safety Net Review Commission to evaluate the unemployment compensation program, the Trade Adjustment Assistance program, the Job Corps program, programs under the Workforce Investment Act, and other employment assistance programs, including the purpose, goals, countercyclical effectiveness, coverage, benefit adequacy, trust fund solvency, funding of State administrative costs, administrative efficiency, and any other aspects of each such program, as well as any related sections of the Internal Revenue Code of 1986 (including, for example, the taxation of public benefits), and to make recommendations for their improvement.

The Commission would include members representing the interests of labor, business, and State governments, with 5 members appointed by the President, and 3 each by the President pro tempore of the Senate and the Speaker of the House of Representatives.

Within 6 months from enactment, the Commission shall submit its findings and recommendations to the President and Congress and shall terminate two months after submitting this report.

REASONS FOR CHANGE

The Committee is interested in learning more about the adequacy, effectiveness, and coverage of existing programs designed to help dislocated workers.

EFFECTIVE DATE

This provision is effective upon enactment.

TITLE IV—MANUFACTURING REDEVELOPMENT ZONES

DESIGNATION AND ELIGIBILITY RULES

Designation

The Secretary of the Treasury shall designate not more than 24 manufacturing redevelopment zones (the "zones") during the two-year period beginning on the date of enactment of this proposal. These zones shall be selected from among areas nominated for designation by their State or local governments. The aggregate population of the designated zones shall not exceed two million. This determination of population shall be made on the basis of the most recent decennial census for which data are available.

Any such designation shall remain in effect during the period beginning on the date of designation and ending the earliest of: (1) the close of the tenth calendar year beginning on or after the date of the designation; (2) the termination date designated by the State or local governments as provided for in their nomination; or (3) the date the Secretary revokes the designation. The Secretary may revoke a designation if the Secretary determines that the local government or State in which it is located: (1) has modified the boundaries of the area; or (2) is not complying substantially with or fails to make progress in achieving the benchmarks set forth in the strategic plan included in the application.

Rules similar to the rules for designation and application of enterprise communities and empowerment zones shall apply to manufacturing redevelopment zones (sec. 1391(e) and (f) of the Code).

Eligibility criteria

A nominated area shall be eligible for designation as a manufacturing redevelopment zone if three requirements are satisfied: (1) the area must meet the eligibility criteria (e.g., population, distress, size, and poverty rate criteria) applicable to enterprise communities and empowerment zones (sec. 1392); (2) the area must have experienced a significant decline in the number of individuals employed in manufacturing or has a high concentration of abandoned or underutilized manufacturing facilities; and (3) no portion of the nominated area is located in an empowerment zone (sec. 1391) or renewal community (sec. 1400E) unless the local government which nominated the area elects to terminate such designation as an empowerment zone or renewal community. In determining whether a nominated area is eligible for designation as a manufacturing redevelopment zone, the Secretary may, where necessary to carry out

the purposes of this provision, waive the poverty rate criteria if it is shown that the nominated area has experienced a loss of manufacturing jobs in excess of 25 percent over the previous 20 years.

The terms defined in section 1393 with regard to enterprise communities and empowerment zones shall have the same meaning with regard to manufacturing redevelopment zones. Finally, the special rules provided in section 1392(b)(c) and (d) and section 1393(a)(4)(7)(8) and (9) with regard to enterprise communities and empowerment zones shall apply with regard to manufacturing redevelopment zones.

MANUFACTURING REDEVELOPMENT ZONE TAX CREDIT BONDS (SEC. 401 OF THE BILL AND NEW SEC. 1400U–3 OF THE CODE)

PRESENT LAW

Tax-exempt bonds

In general

Subject to certain Code restrictions, interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes. Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds for which the State or local government serves as a conduit providing financing to nongovernmental persons. For this purpose, the term "nongovernmental person" generally includes the Federal government and all other individuals and entities other than States or local governments. The exclusion from income for interest on State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Private activity bond tests

Present law provides two tests for determining whether a State or local bond is in substance a private activity bond, the private business test and the private loan test.[9]

Private business tests

Private business use and private payments result in State and local bonds being private activity bonds if both parts of the two-part private business test are satisfied—

More than 10 percent of the bond proceeds is to be used (directly or indirectly) by a private business (the "private business use test"); and

More than 10 percent of the debt service on the bonds is secured by an interest in property to be used in a private business use or

[9] Sec. 141(b) and (c).

to be derived from payments in respect of such property (the "private payment test").[10]

Private business use generally includes any use by a business entity (including the Federal government), which occurs pursuant to terms not generally available to the general public. For example, if bond-financed property is leased to a private business (other than pursuant to certain short-term leases for which safe harbors are provided under Treasury regulations), bond proceeds used to finance the property are treated as used in a private business use, and rental payments are treated as securing the payment of the bonds. Private business use also can arise when a governmental entity contracts for the operation of a governmental facility by a private business under a management contract that does not satisfy Treasury regulatory safe harbors regarding the types of payments made to the private operator and the length of the contract.[11]

Private loan test

The second standard for determining whether a State or local bond is a private activity bond is whether an amount exceeding the lesser of (1) five percent of the bond proceeds or (2) $5 million is used (directly or indirectly) to finance loans to private persons. Private loans include both business and other (e.g., personal) uses and payments by private persons; however, in the case of business uses and payments, all private loans also constitute private business uses and payments subject to the private business test. Present law provides that the substance of a transaction governs in determining whether the transaction gives rise to a private loan. In general, any transaction which transfers tax ownership of property to a private person is treated as a loan.

Qualified private activity bonds

As stated above, interest on private activity bonds is taxable unless the bonds meet the requirements for qualified private activity bonds. Qualified private activity bonds permit States or local governments to act as conduits providing tax-exempt financing for certain private activities. The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)). The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).

In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits im-

[10] The 10-percent private business use and payment threshold is reduced to five percent for private business uses that are unrelated to a governmental purpose also being financed with proceeds of the bond issue.

[11] "See Treas. Reg. sec. 1.141–3(b)(4) and Rev. Proc. 97–13, 1997–1 C.B. 632.

posed on bonds issued by issuers within each State. For calendar year 2007, the State volume cap, which is indexed for inflation, equals $85 per resident of the State, or $256.24 million, if greater.

Arbitrage restrictions

The tax exemption for State and local bonds does not apply to any arbitrage bond.[12] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments.[13] In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal government.

Tax credit bonds

In general

As an alternative to traditional tax-exempt bonds, the Code permits three types of tax-credit bonds. State and local governments have the authority to issue clean renewable energy bonds ("CREBS"), qualified zone academy bonds ("QZABS"), and "Gulf tax credit bonds." [14]

A common feature of the present law tax-credit bonds is that the taxpayer holding such a bond receives a tax credit, rather than an interest payment. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the taxpayer's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of such bonds without discount and interest cost to the qualified issuer. The credit is includible in gross income (as if it were an interest payment on the bond), and can be credited against regular income tax liability and alternative minimum tax liability.

Clean renewable energy bonds

CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for qualified projects. "Qualified projects" are facilities that qualify for the tax credit under section 45 (other than Indian coal production facilities), without regard to the placed-in-service date requirements of that section.[15] The term "qualified issuers" includes: (1) governmental bodies (including Indian tribal governments); (2) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (3)

[12] Sec. 103(a) and (b)(2).
[13] Sec. 148.
[14] Secs. 1397E, 54, and 1400N(1), respectively.
[15] In addition, Notice 2006–7 provides that qualified projects include any facility owned by a qualified borrower that is functionally related and subordinate to any facility described in section 45(d)(1) through (d)(9) and owned by such qualified borrower.

clean renewable energy bond lenders. The term "qualified borrower" includes a governmental body (including an Indian tribal government) and a mutual or cooperative electric company. A clean renewable energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and which was in existence on February 1, 2002.

In addition to the above requirements, at least 95 percent of the proceeds of CREBs must be spent on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." The five-year spending period may be extended by the Secretary upon the qualified issuer's request demonstrating that the failure to satisfy the five-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

CREBs also are subject to the arbitrage requirements of section 148 that apply to tax-exempt bonds. Principles under section 148 and the regulations thereunder apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs.

Issuers of CREBs are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. There is a national CREB limitation of $1.2 billion. The maximum amount of CREBs that may be allocated to qualified projects of governmental bodies is $750 million. CREBs must be issued before January 1, 2009.

Qualified zone academy bonds

"QZABs" are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy," and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds. Eligible holders of QZABs are limited to financial institutions.

An issuer of QZABs must reasonably expect to and actually spend 95 percent or more of the proceeds of such bonds on qualified zone academy property within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified zone academy property during the five-year spending period, bonds will continue to qualify as QZABs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any nonqualified bonds. For these purposes, the amount of nonqualified bonds is to be determined in the same manner as Treasury regulations under section 142. The provision provides that the five-year spending period may be extended by the Secretary if the issuer establishes that the failure to meet the spending requirement is due to reasonable cause and the related purposes for issuing the bonds will continue to proceed with due diligence.

A total of $400 million of qualified zone academy bonds is authorized to be issued annually in calendar years 1998 through 2007. The $400 million aggregate bond cap is allocated to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit authority to qualified zone academies within such State.

Issuers of QZABs are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. In addition, QZABs are subject to the arbitrage requirements of section 148 that apply to tax-exempt bonds. Principles under section 148 and the regulations thereunder apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to QZABs.

Gulf tax credit bonds

Gulf tax credit bonds were authorized for issuance by the States of Louisiana, Mississippi, and Alabama in calendar year 2006. To qualify as Gulf tax credit bonds, 95 percent or more of the proceeds of such bonds must be used to (i) pay principal, interest, or premium on a bond (other than a private activity bond) that was outstanding on August 28, 2005, and was issued by the State issuing the Gulf tax credit bonds, or any political subdivision thereof, or (ii) make a loan to any political subdivision of such State to pay principal, interest, or premium on a bond issued by such political subdivision.

The maximum amount of Gulf tax credit bonds authorized to be issued was $200 million in the case of Louisiana, $100 million in the case of Mississippi, and $50 million in the case of Alabama. As with CREBs and QZABs, issuers of Gulf tax credit bonds are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds.

REASONS FOR CHANGE

Many local communities have seen a significant decline in the number of individuals employed in manufacturing and are struggling with high concentrations of abandoned or underutilized manufacturing facilities. The Committee believes that additional incentives are needed to assist those communities impacted by the manufacturing jobs crisis. The Committee also believes that State and local governments often are in the best position to assess redevelopment needs. Thus, the Committee believes it is appropriate to empower State and local governments by providing them with access to subsidized financing to help promote infrastructure redevelopment in communities affected by manufacturing job losses.

EXPLANATION OF PROVISION

The provision creates a new category of tax-credit bonds, "Manufacturing Redevelopment Tax Credit Bonds." A Manufacturing Redevelopment Tax Credit Bond means any bond if: (1) 100 percent of the available project proceeds of the bond are to be used for qualified manufacturing redevelopment purposes within the three-year period that begins on the date of issuance; (2) the bond is not a private activity bond (as defined in section 141); and (3) the bond is designated as a manufacturing redevelopment bond by the local government which nominated the area to which such bond relates.

Under the provision, the term "qualified manufacturing redevelopment purpose" means capital expenditures paid or incurred with respect to property located in a manufacturing redevelopment zone for purposes of promoting development or other economic activity. Examples of qualified manufacturing redevelopment purposes include, but are not limited to, expenditures for environmental remediation, improvements to public infrastructure, and construction of public facilities.

The provision defines "available project proceeds" as proceeds from the sale of an issue of Manufacturing Redevelopment Tax Credit Bonds, less issuance costs (not to exceed two percent) and any investment earnings on such sale proceeds. To the extent less than 100 percent of the available project proceeds are used to finance qualified manufacturing redevelopment purposes during the three-year spending period, bonds will continue to qualify as Manufacturing Redevelopment Tax Credit Bonds if outstanding bonds are redeemed within 90 days from the end of such three-year period. The three-year spending period may be extended by the Secretary upon the issuer's request demonstrating that the failure to satisfy the three-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Manufacturing Redevelopment Tax Credit Bonds generally are subject to the arbitrage requirements of section 148. However, available project proceeds invested during the three-year spending period are not subject to the arbitrage restrictions (i.e., yield restriction and rebate requirements). In addition, amounts invested in a reserve fund are not subject to the arbitrage restrictions to the extent: (1) such fund is funded at a rate not more rapid than equal annual installments; (2) such fund is funded in a manner such that the fund will not exceed the amount necessary to repay the issue if invested at the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the Manufacturing Redevelopment Bonds are issued; and (3) the yield on such fund is not greater than the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the Manufacturing Redevelopment Tax Credit Bonds are issued.

The maturity of Manufacturing Redevelopment Tax Credit Bonds is the term that the Secretary estimates will result in the present value of the obligation to repay the principal on such bonds being equal to 50 percent of the face amount of such bonds, using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the Manufacturing Redevelopment Tax Credit Bonds are issued.

As with present-law tax credit bonds, the taxpayer holding Manufacturing Redevelopment Tax Credit Bonds on a credit allowance date is entitled to a tax credit. The credit rate on the bonds is determined by the Secretary to be a rate that permits issuance of the bonds without discount and interest cost to the qualified issuer. The amount of the tax credit to the holder is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit accrues quarterly, is includible in gross income (as if it were an interest payment on the bond), and can be credited against regular income tax liability and alternative minimum tax

liability. Unused credits in one year may be carried forward to succeeding taxable years.

Under the provision, the maximum aggregate face amount of Manufacturing Redevelopment Tax Credit Bonds that can be issued in any manufacturing redevelopment zone is $150 million.

EFFECTIVE DATE

The provision is effective for bonds issued after December 31, 2007.

MANUFACTURING REDEVELOPMENT ZONE PRIVATE ACTIVITY BONDS (SEC. 401 OF THE BILL AND NEW SEC. 1400U–4 OF THE CODE)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Qualified private activity bonds

Qualified private activity bonds permit States or local governments to act as conduits providing tax-exempt financing for certain private activities. The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)).

The definition of an exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).

In most cases, the aggregate volume of qualified private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State ("State volume cap"). For calendar year 2007, the State volume cap, which is indexed for inflation, equals $85 per resident of the State, or $256.24 million, if greater. Exceptions to the State 46 volume cap are provided for bonds for certain governmentally owned facilities (e.g., airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (e.g., public/private educational facility bonds, enterprise zone facil-

ity bonds, qualified green building bonds, and qualified highway or surface freight transfer facility bonds).

Qualified private activity bonds generally are subject to restrictions on the use of proceeds for the acquisition of land and existing property. In addition, qualified private activity bonds generally are subject to restrictions on the use of proceeds to finance certain specified facilities (e.g., airplanes, skyboxes, other luxury boxes, health club facilities, gambling facilities, and liquor stores), and use of proceeds to pay costs of issuance (e.g., bond counsel and underwriter fees). Small issue and redevelopment bonds also are subject to additional restrictions on the use of proceeds for certain facilities (e.g., golf courses and massage parlors).

Moreover, the term of qualified private activity bonds generally may not exceed 120 percent of the economic life of the property being financed and certain public approval requirements (similar to requirements that typically apply under State law to issuance of governmental debt) apply under Federal law to issuance of private activity bonds.

New York Liberty Zone Bonds

Present law permits an aggregate of $8 billion in exempt facility bonds for the purpose of financing the construction and rehabilitation of nonresidential real property and residential rental real property in a designated "Liberty Zone" (the "Zone") of New York City ("Liberty Zone bonds"). The Zone consists of all business addresses located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan.

Property eligible for financing with these bonds includes buildings and their structural components, fixed tenant improvements, and public utility property (e.g., gas, water, electric, and telecommunication lines). Fixtures and equipment that could be removed from the designated zone for use elsewhere are not eligible for financing with these bonds. Issuance of these bonds is limited to projects approved by the Mayor of New York City or the Governor of New York State, each of whom may designate up to $4 billion of the aggregate bond authority.

Liberty Zone Bonds must be issued before January 1, 2010, and are not subject to the State volume cap.

Gulf Opportunity Zone Bonds

Present law permits the issuance of qualified private activity bonds to finance the construction and rehabilitation of residential and nonresidential property located in the Gulf Opportunity Zone ("Gulf Opportunity Zone Bonds").[16] Gulf Opportunity Zone Bonds must be issued before January 1, 2011.

Gulf Opportunity Zone Bonds may be issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof. Gulf Opportunity Zone Bonds are not subject to the State volume cap. Rather, the maximum aggregate face amount of Gulf Opportunity Zone Bonds that may be issued in any State is limited

[16] The "Gulf Opportunity Zone" is defined as that portion of the Hurricane Katrina Disaster Area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

to $2,500 multiplied by the population of the respective State within the Gulf Opportunity Zone. Depending on the purpose for which such bonds are issued, Gulf Opportunity Zone Bonds are treated as either exempt facility bonds or qualified mortgage bonds.

Gulf Opportunity Zone Bonds are treated as exempt facility bonds if 95 percent or more of the net proceeds of such bonds are to be used for qualified project costs located in the Gulf Opportunity Zone. Qualified project costs include the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property, qualified residential rental projects (as defined in section 142(d) with certain modifications), and public utility property.

Empowerment zones

The Omnibus Budget Reconciliation Act of 1993 authorized the designation of nine empowerment zones to provide tax incentives for businesses to locate within targeted areas (1391(b)(2)). The Taxpayer Relief Act of 1997 authorized the designation of 22 additional empowerment zones (1391(g)(1)). The Community Renewal Tax Relief Act of 2000 authorized the designation of nine new empowerment zones (bringing the total to 40 empowerment zones) (1391(h)). To be designated as an empowerment zone, the nominated area must satisfy certain size, population, and poverty criteria (that vary depending on whether the area is urban or rural).

The 40 empowerment zones permit businesses located in the empowerment zones to qualify for a number of tax incentives, including expanded tax-exempt private activity bond authority to finance certain depreciable property in an empowerment zone. The tax incentives with respect to the empowerment zones generally are available through December 31, 2009.

REASONS FOR CHANGE

The Committee believes that additional tax incentives are needed to encourage economic redevelopment in those communities adversely affected by the manufacturing job losses. The Committee also believes that State and local governments often are in the best position to determine the mix of private investment that will best assist a community's redevelopment. Thus, the Committee believes it is appropriate to provide State and local governments with additional tools to encourage private investment in those communities affected by manufacturing job losses by expanding access to tax-exempt bond financing in such communities.

EXPLANATION OF PROVISION

The provision creates a new category of qualified private activity bonds, "Manufacturing Redevelopment Zone Bonds." A Manufacturing Redevelopment Zone Bond means any bond issued as part of an issue if: (1) 95 percent or more of the net proceeds of such issue are to be used for manufacturing zone property and (2) the bond is designated as a Manufacturing Redevelopment Zone Bond by the local government which nominated the area to which such bond relates.

Under the provision, the term "manufacturing zone property" means any property subject to depreciation (to which section 168 applies) if (1) such property was acquired by the taxpayer by purchase after the date on which the designation of the manufacturing

redevelopment zone took effect; (2) the original use of such property in the manufacturing redevelopment zone commences with the taxpayer; and (3) substantially all of the use of such property is in the manufacturing redevelopment zone and is in the active conduct of a qualified business by the taxpayer in such zone. The term "qualified business" means any trade or business except that the rental to others of real property located in a manufacturing redevelopment zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)).

Subject to the following exceptions and modifications, issuance of Manufacturing Redevelopment Zone Bonds is subject to the general rules applicable to issuance of qualified private activity bonds:

(1) Issuance of the bonds is not subject to the aggregate annual State private activity bond volume limits (sec. 146);

(2) The restriction on acquisition of existing property does not apply (sec. 147(d)), unless such acquisition is inconsistent with the definition of manufacturing zone property;

(3) Interest on the bonds is not a preference item for purposes of the alternative minimum tax preference for private activity bond interest (sec. 57(a)(5)); and

(4) No portion of the proceeds of the bonds may be used to provide any property described in section 144(c)(6)(B) (i.e., any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal purpose of which is the sale alcoholic beverages for consumption off premises).

Under the provision, the maximum aggregate face amount of Manufacturing Redevelopment Zone Bonds that can be issued in any manufacturing redevelopment zone is $230 million. In addition, the amount of Manufacturing Redevelopment Zone Bonds that can be allocated to any person cannot exceed (1) $15 million in any one manufacturing redevelopment zone or (2) $20 million in all manufacturing redevelopment zones.

EFFECTIVE DATE

The provision is effective for bonds issued after December 31, 2007.

INCREASE THE LOW-INCOME HOUSING CREDIT CAP FOR MANUFACTURING REDEVELOPMENT ZONES (SEC. 401 OF THE BILL AND SEC. 42 OF THE CODE)

PRESENT LAW

In general

The low-income housing credit may be claimed over a 10–year period for the cost of rental housing occupied by tenants having incomes below specified levels. The amount of the credit for any taxable year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. The qualified basis of any qualified low-income building for any taxable year equals the applicable fraction of the eligible basis of the building.

The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted

monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified basis. The credit percentage for newly constructed or substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent of qualified basis. These are referred to as the 70–percent credit and 30–percent credit, respectively.

Credit cap

Generally, the aggregate credit authority provided annually to each State for calendar year 2007 is $1.95 per resident with a minimum annual cap of $2,275,000 for certain small population States. These amounts are indexed for inflation. These limits do not apply in the case of projects that also receive financing with proceeds of tax-exempt bonds issued subject to the private activity bond volume limit.

Stacking rule

Authority to allocate credits remains at the State (as opposed to local) government level unless State law provides otherwise. Generally, credits may be allocated only from volume authority arising during the calendar year in which the building is placed in service, except in the case of: (1) credits claimed on additions to qualified basis; (2) credits allocated in a later year pursuant to an earlier binding commitment made no later than the year in which the building is placed in service; and (3) carryover allocations.

Each State annually receives low-income housing credit authority equal to $1.90 per State resident for allocation to qualified low-income projects. In addition to this $1.90 per resident amount, each State's "housing credit ceiling" includes the following amounts: (1) the unused State housing credit ceiling (if any) of such State for the preceding calendar year; (2) the amount of the State housing credit ceiling (if any) returned in the calendar year; and (3) the amount of the national pool (if any) allocated to such State by the Treasury Department.

The national pool consists of States' unused housing credit carryovers. For each State, the unused housing credit carryover for a calendar year consists of the excess (if any) of the unused State housing credit ceiling for such year over the excess (if any) of the aggregate housing credit dollar amount allocated for such year over the sum of $1.90 per resident and the credit returns for such year. The amounts in the national pool are allocated only to States that allocated their entire housing credit ceiling for the preceding calendar year and requested a share in the national pool not later than May 1 of the calendar year. The national pool allocation to qualified States is made on a pro rata basis equivalent to the fraction that a State's population enjoys relative to the total population of all qualified States for that year.

The present-law stacking rule provides that each State is treated as using its allocation of the unused State housing credit ceiling (if any) from the preceding calendar before the current year's allocation of credit (including any credits returned to the State) and then finally any national pool allocations.

REASONS FOR CHANGE

The Committee believes that any integrated response to the economic issues inherent in manufacturing redevelopment zones must include a proposal to provide adequate rental housing for residents. The low-income housing credit is a successful model and should serve ably to foster additional low-income rental housing in these zones.

EXPLANATION OF PROVISION

Credit cap

Under the bill, the Secretary of the Treasury may designate a specified number of manufacturing redevelopment zones subject to an overall population cap.

While a designation of a manufacturing redevelopment zone is in effect (up to 10 years beginning with the calendar year in which the designation goes into effect) a State's otherwise applicable housing credit ceiling is increased by the manufacturing zone housing amount for each manufacturing redevelopment zone located within such State. The manufacturing zone housing amount equals $20 times the number of such State's residents within the manufacturing redevelopment zone: For purposes of the manufacturing zone housing amount, the determination of population for any calendar year is made on the basis of the most recent census estimate.

The amount of the State's increase in the otherwise applicable housing credit ceiling is the lesser of: (a) the actual housing credit dollar amount allocated from the State housing credit agency to buildings located in the manufacturing redevelopment zone for a calendar year; or (b) the aggregate manufacturing zone housing amount for that manufacturing redevelopment zone minus all the increases under this proposal in the State's ceiling in previous calendar years of that manufacturing redevelopment zone's designation.

Any subsequent returns (from the developer to the State housing credit agency) of a credit allocation from the manufacturing zone housing amount are eligible to be reallocated under this special rule but are not treated as returns under the otherwise applicable housing credit ceiling.

EFFECTIVE DATE

The provisions are generally effective for calendar years beginning after 2007.

EXPANSION OF THE WORK OPPORTUNITY TAX CREDIT (SEC. 401 OF THE BILL AND SEC. 51 OF THE CODE)

PRESENT LAW

In general

The work opportunity tax credit is available on an elective basis for employers hiring individuals from one or more of nine targeted groups. The amount of the credit available to an employer is determined by the amount of qualified wages paid by the employer. Generally, qualified wages consist of wages attributable to service rendered by a member of a targeted group during the one-year period

beginning with the day the individual begins work for the employer (two years in the case of an individual in the long-term family assistance recipient category).

Targeted groups eligible for the credit

Generally an employer is eligible for the credit only for qualified wages paid to members of a targeted group.

(1) Families receiving TANF

An eligible recipient is an individual certified by a designated local employment agency (e.g., a State employment agency) as being a member of a family eligible to receive benefits under the Temporary Assistance for Needy Families Program ("TANF") for a period of at least nine months, part of which is during the 18-month period ending on the hiring date. For these purposes, members of the family are defined to include only those individuals taken into account for purposes of determining eligibility for the TANF.

(2) Qualified veteran

A qualified veteran is a veteran who is certified by the designated local agency: (1) as a member of a family certified as receiving assistance under a food stamp program under the Food Stamp Act of 1977 for a period of at least three months, part of which is during the 12-month period ending on the hiring date;[17] or (2) as entitled to compensation for a service-connected disability and: (a) having a hiring date which is not more than one year after having been discharged or released from active duty in the Armed Forces of the United States, or (b) having been unemployed for six months or more (whether or not consecutive) during the one-year period ending on the date of hiring.[18]

For these purposes, a veteran is an individual who has served on active duty (other than for training) in the Armed Forces for more than 180 days or who has been discharged or released from active duty in the Armed Forces for a service-connected disability. However, any individual who has served for a period of more than 90 days during which the individual was on active duty (other than for training) is not a qualified veteran if any of this active duty occurred during the 60-day period ending on the date the individual was hired by the employer. This latter rule is intended to prevent employers who hire current members of the armed services (or those departed from service within the last 60 days) from receiving the credit.

(3) Qualified ex-felon

A qualified ex-felon is an individual certified as: (1) having been convicted of a felony under any State or Federal law, and (2) having a hiring date within one year of release from prison or date of conviction.

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[17] For these purposes, members of a family are defined to include only those individuals taken into account for purposes of determining eligibility for a food stamp program under the Food Stamp Act of 1977.

[18] Being entitled to compensation for a service-connected disability is defined with reference to section 101 of Title 38, U.S.C., which means having a disability rating of 10-percent or higher for service connected injuries.

(4) Designated community residents

A designated community resident is an individual certified as being at least age 18 but not yet age 40 on the hiring date and as having a principal place of abode within an empowerment zone, renewal community (as defined under Subchapter U of Subtitle A, Chapter 1 of the Code) or rural renewal county (defined as a county outside a metropolitan statistical area (as defined by the Office of Management and Budget) which had a net population loss during the five-year periods 1990–1994 and 1995–1999). Qualified wages do not include wages paid or incurred for services performed after the individual moves outside an empowerment zone, renewal community, or rural renewal community.

(5) Vocational rehabilitation referral

A vocational rehabilitation referral is an individual who is certified by a designated local agency as an individual who has a physical or mental disability that constitutes a substantial handicap to employment and who has been referred to the employer while receiving, or after completing: (a) vocational rehabilitation services under an individualized, written plan for employment under a State plan approved under the Rehabilitation Act of 1973; (b) a rehabilitation plan for veterans carried out under Chapter 31 of Title 38, U.S. Code; or (c) an individual work plan developed and implemented by an employment network pursuant to subsection (g) of section 1148 of the Social Security Act with respect to which the requirements of such subsection are met. Certification will be provided by the designated local employment agency upon assurances from the vocational rehabilitation agency that the employee has met the above conditions.

(6) Qualified summer youth employee

A qualified summer youth employee is an individual: (1) Who performs services during any 90-day period between May 1 and September 15, (2) who is certified by the designated local agency as being 16 or 17 years of age on the hiring date, (3) who has not been an employee of that employer before, and (4) who is certified by the designated local agency as having a principal place of abode within an empowerment zone, enterprise community, or renewal community (as defined under Subchapter U of Subtitle A, Chapter 1 of the Code. As with high-risk youths, no credit is available on wages paid or incurred for service performed after the qualified summer youth moves outside of an empowerment zone, enterprise community, or renewal community. If, after the end of the 90-day period, the employer continues to employ a youth who was certified during the 90-day period as a member of another targeted group, the limit on qualified first year wages will take into account wages paid to the youth while a qualified summer youth employee.

(7) Qualified food stamp recipient

A qualified food stamp recipient is an individual aged 18 but not yet 40 certified by a designated local employment agency as being a member of a family receiving assistance under a food stamp program under the Food Stamp Act of 1977 for a period of at least six months ending on the hiring date. In the case of families that cease to be eligible for food stamps under section 6(o) of the Food Stamp

Act of 1977, the six-month requirement is replaced with a requirement that the family has been receiving food stamps for at least three of the five months ending on the date of hire. For these purposes, members of the family are defined to include only those individuals taken into account for purposes of determining eligibility for a food stamp program under the Food Stamp Act of 1977.

(8) Qualified SSI recipient

A qualified SSI recipient is an individual certified by a designated local agency as receiving supplemental security income ("SSI") benefits under Title XVI of the Social Security Act for any month ending within the 60-day period ending on the hiring date.

(9) Long-term family assistance recipients

A qualified long-term family assistance recipient is an individual certified by a designated local agency as being: (1) a member of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) a member of a family that has received such family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997 (the date of enactment of the welfare-to-work tax credit)[19] if the individual is hired within two years after the date that the 18-month total is reached; or (3) a member of a family who is no longer eligible for family assistance because of either Federal or State time limits, if the individual is hired within two years after the Federal or State time limits made the family ineligible for family assistance.

Qualified wages

Generally, qualified wages are defined as cash wages paid by the employer to a member of a targeted group. The employer's deduction for wages is reduced by the amount of the credit.

For purposes of the credit, generally, wages are defined by reference to the FUTA definition of wages contained in sec. 3306(b) (without regard to the dollar limitation therein contained). Special rules apply in the case of certain agricultural labor and certain railroad labor.

Calculation of the credit

The credit available to an employer for qualified wages paid to members of all targeted groups except for long-term family assistance recipients equals 40 percent (25 percent for employment of 400 hours or less) of qualified first-year wages. Generally, qualified first-year wages are qualified wages (not in excess of $6,000) attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $2,400 (40 percent of the first $6,000 of qualified first-year wages). There are two exceptions to this general rule. First, with respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages). Second, with respect to qualified veterans who are entitled to compensation for a service-connected disability, the maximum

[19] The welfare-to-work tax credit was consolidated into the work opportunity tax credit in the Tax Relief and Health Care Act of 2006 for qualified individuals who begin to work for an employer after December 31, 2006.

credit is $4,800 because qualified first-year wages are $12,000 rather than $6,000 for such individuals.[20] Except for long-term family assistance recipients, no credit is allowed for second-year wages.

In the case of long-term family assistance recipients, the credit equals 40 percent (25 percent for employment of 400 hours or less) of $10,000 for qualified first-year wages and 50 percent of the first $10,000 of qualified second-year wages. Generally, qualified second-year wages are qualified wages (not in excess of $10,000) attributable to service rendered by a member of the long-term family assistance category during the one-year period beginning on the day after the one-year period beginning with the day the individual began work for the employer. Therefore, the maximum credit per employee is $9,000 (40 percent of the first $10,000 of qualified first-year wages plus 50 percent of the first $10,000 of qualified second-year wages).

Certification rules

An individual is not treated as a member of a targeted group unless: (1) on or before the day on which an individual begins work for an employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group; or (2) on or before the day an individual is offered employment with the employer, a pre-screening notice is completed by the employer with respect to such individual, and not later than the 28th day after the individual begins work for the employer, the employer submits such notice, signed by the employer and the individual under penalties of perjury, to the designated local agency as part of a written request for certification. For these purposes, a pre-screening notice is a document (in such form as the Secretary may prescribe) which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

Minimum employment period

No credit is allowed for qualified wages paid to employees who work less than 120 hours in the first year of employment.

Other rules

The work opportunity tax credit is not allowed for wages paid to a relative or dependent of the taxpayer. No credit is allowed for wages paid to an individual who is a more than fifty-percent owner of the entity. Similarly, wages paid to replacement workers during a strike or lockout are not eligible for the work opportunity tax credit. Wages paid to any employee during any period for which the employer received on-the-job training program payments with respect to that employee are not eligible for the work opportunity tax credit. The work opportunity tax credit generally is not allowed for wages paid to individuals who had previously been employed by the employer. In addition, many other technical rules apply.

[20] The expanded definition of qualified first-year wages does not apply to the veterans qualified with reference to a food stamp program, as defined under present law.

Expiration

The work opportunity tax credit is not available for individuals who begin work for an employer after August 31, 2011.

REASONS FOR CHANGE

The work opportunity tax credit already provides an incentive to employers to employ individuals from certain economically depressed areas. Expanding availability of the work opportunity tax credit to residents of manufacturing redevelopment zones is a logical part of the package of tax incentives for these zones. This expansion is consistent with the Committee's belief that any integrated response to the economic issues inherent in manufacturing redevelopment zones must include a proposal to encourage employers to offer employment to zone residents.

EXPLANATION OF PROVISION

The bill adds residents of manufacturing redevelopment zones to the category of designated community residents for purposes of the work opportunity tax credit.[21]

EFFECTIVE DATE

The provision is effective for wages paid or incurred for individuals who begin work for an employer after the date of enactment.

DELAY IMPLEMENTATION OF WORLDWIDE INTEREST ALLOCATION (SEC. 402 OF THE BILL AND SEC. 864(F) OF THE CODE)

PRESENT LAW

In general

In order to compute the foreign tax credit limitation, a taxpayer must determine the amount of its taxable income from foreign sources. Thus, the taxpayer must allocate and apportion deductions between items of U.S.-source gross income, on the one hand, and items of foreign-source gross income, on the other.

In the case of interest expense, the rules generally are based on the approach that money is fungible and that interest expense is properly attributable to all business activities and property of a taxpayer, regardless of any specific purpose for incurring an obligation on which interest is paid.[22] For interest allocation purposes, all members of an affiliated group of corporations generally are treated as a single corporation (the so-called "one-taxpayer rule") and allocation must be made on the basis of assets rather than gross income. The term "affiliated group" in this context generally is defined by reference to the rules for determining whether corporations are eligible to file consolidated returns.

For consolidation purposes, the term "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if: (1) the common parent owns directly

[21] The age limitation otherwise applicable to designated community residents also applies (i.e., a resident of a manufacturing redevelopment zone must be an individual certified as being at least age 18 but not yet 40 on the hiring date)".

[22] However, exceptions to the fungibility principle are provided in particular cases, some of which are described below.

stock possessing at least 80 percent of the total voting power and at least 80 percent of the total value of at least one other includible corporation; and (2) stock meeting the same voting power and value standards with respect to each includible corporation (excluding the common parent) is directly owned by one or more other includible corporations.

Generally, the term "includible corporation" means any domestic corporation except certain corporations exempt from tax under section 501 (for example, corporations organized and operated exclusively for charitable or educational purposes), certain life insurance companies, corporations electing application of the possession tax credit, regulated investment companies, real estate investment trusts, and domestic international sales corporations. A foreign corporation generally is not an includible corporation.

Subject to exceptions, the consolidated return and interest allocation definitions of affiliation generally are consistent with each other.[23] For example, both definitions generally exclude all foreign corporations from the affiliated group. Thus, while debt generally is considered fungible among the assets of a group of domestic affiliated corporations, the same rules do not apply as between the domestic and foreign members of a group with the same degree of common control as the domestic affiliated group.

Banks, savings institutions, and other financial affiliates

The affiliated group for interest allocation purposes generally excludes what are referred to in the Treasury regulations as "financial corporations" (Treas. Reg. sec. 1.861–11T(d)(4)). These include any corporation, otherwise a member of the affiliated group for consolidation purposes, that is a financial institution (described in section 581 or section 591), the business of which is predominantly with persons other than related persons or their customers, and which is required by State or Federal law to be operated separately from any other entity which is not a financial institution (sec. 864(e)(5)(C)). The category of financial corporations also includes, to the extent provided in regulations, bank holding companies (including financial holding companies), subsidiaries of banks and bank holding companies (including financial holding companies), and savings institutions predominantly engaged in the active conduct of a banking, financing, or similar business (sec. 864(e)(5)(D)).

A financial corporation is not treated as a member of the regular affiliated group for purposes of applying the one-taxpayer rule to other non-financial members of that group. Instead, all such financial corporations that would be so affiliated are treated as a separate single corporation for interest allocation purposes.

Worldwide interest allocation

In general

The American Jobs Creation Act of 2004 ("AJCA")[24] modifies the interest expense allocation rules described above (which generally apply for purposes of computing the foreign tax credit limitation) by providing a one-time election (the "worldwide affiliated group

[23] One such exception is that the affiliated group for interest allocation purposes includes section 936 corporations that are excluded from the consolidated group.

[24] Pub. L. No. 108–357, sec. 401 (2004).

election") under which the taxable income of the domestic members of an affiliated group from sources outside the United States generally is determined by allocating and apportioning interest expense of the domestic members of a worldwide affiliated group on a worldwide-group basis (i.e., as if all members of the worldwide group were a single corporation). If a group makes this election, the taxable income of the domestic members of a worldwide affiliated group from sources outside the United States is determined by allocating and apportioning the third-party interest expense of those domestic members to foreign-source income in an amount equal to the excess (if any) of (1) the worldwide affiliated group's worldwide third-party interest expense multiplied by the ratio which the foreign assets of the worldwide affiliated group bears to the total assets of the worldwide affiliated group,[25] over (2) the third-party interest expense incurred by foreign members of the group to the extent such interest would be allocated to foreign sources if the principles of worldwide interest allocation were applied separately to the foreign members of the group.[26]

For purposes of the new elective rules based on worldwide fungibility, the worldwide affiliated group means all corporations in an affiliated group as well as all controlled foreign corporations that, in the aggregate, either directly or indirectly,[27] would be members of such an affiliated group if section 1504(b)(3) did not apply (i.e., in which at least 80 percent of the vote and value of the stock of such corporations is owned by one or more other corporations included in the affiliated group). Thus, if an affiliated group makes this election, the taxable income from sources outside the United States of domestic group members generally is determined by allocating and apportioning interest expense of the domestic members of the worldwide affiliated group as if all of the interest expense and assets of 80-percent or greater owned domestic corporations (i.e., corporations that are part of the affiliated group, as modified to include insurance companies) and certain controlled foreign corporations were attributable to a single corporation.

The common parent of the domestic affiliated group must make the worldwide affiliated group election. It must be made for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group exists that includes at least one foreign corporation that meets the requirements for inclusion in a worldwide affiliated group. Once made, the election applies to the common parent and all other members of the worldwide affiliated group for the taxable year for which the election was made and all subsequent taxable years, unless revoked with the consent of the Secretary of the Treasury.

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[25] For purposes of determining the assets of the worldwide affiliated group, neither stock in corporations within the group nor indebtedness (including receivables) between members of the group is taken into account.

[26] Although the interest expense of a foreign subsidiary is taken into account for purposes of allocating the interest expense of the domestic members of the electing worldwide affiliated group for foreign tax credit limitation purposes, the interest expense incurred by a foreign subsidiary is not deductible on a U.S. return.

[27] Indirect ownership is determined under the rules of section 958(a)(2) or through applying rules similar to those of section 958(a)(2) to stock owned directly or indirectly by domestic partnerships, trusts, or estates.

Financial institution group election

Taxpayers are allowed to apply the bank group rules to exclude certain financial institutions from the affiliated group for interest allocation purposes under the worldwide fungibility approach. The rules also provides a one-time "financial institution group" election that expands the bank group. At the election of the common parent of the pre-election worldwide affiliated group, the interest expense allocation rules are applied separately to a subgroup of the worldwide affiliated group that consists of (1) all corporations that are part of the bank group, and (2) all "financial corporations." For this purpose, a corporation is a financial corporation if at least 80 percent of its gross income is financial services income (as described in section 904(d)(2)(C)(i) and the regulations thereunder) that is derived from transactions with unrelated persons.[28] For these purposes, items of income or gain from a transaction or series of transactions are disregarded if a principal purpose for the transaction or transactions is to qualify any corporation as a financial corporation.

The common parent of the pre-election worldwide affiliated group must make the election for the first taxable year beginning after December 31, 2008, in which a worldwide affiliated group includes a financial corporation. Once made, the election applies to the financial institution group for the taxable year and all subsequent taxable years. In addition, anti-abuse rules are provided under which certain transfers from one member of a financial institution group to a member of the worldwide affiliated group outside of the financial institution group are treated as reducing the amount of indebtedness of the separate financial institution group. Regulatory authority is provided with respect to the election to provide for the direct allocation of interest expense in circumstances in which such allocation is appropriate to carry out the purposes of these rules, to prevent assets or interest expense from being taken into account more than once, or to address changes in members of any group (through acquisitions or otherwise) treated as affiliated under these rules.

Effective date of worldwide interest allocation under AJCA

The worldwide interest allocation rules under AJCA are effective for taxable years beginning after December 31, 2008.

REASONS FOR CHANGE

The Committee believes that it is appropriate to delay implementation of the worldwide interest allocation rules.

EXPLANATION OF PROVISION

The provision delays the effective date of worldwide interest allocation rules for three years, until taxable years beginning after December 31, 2011. The required dates for making the worldwide affiliated group election and the financial institution group election are changed accordingly.

EFFECTIVE DATE

The provision is effective on the date of enactment.

[28] See Treas. Reg. sec. 1.904–4(e)(2).

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 3920, the "Trade and Globalization Act of 2007."

MOTION TO REPORT RECOMMENDATIONS

The Chairman's Amendment in the Nature of a Substitute, as amended, was ordered favorably reported by a roll call vote of 26 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel	X			Mr. McCrery		X	
Mr. Stark	X			Mr. Herger		X	
Mr. Levin	X			Mr. Camp	X		
Mr. McDermott	X			Mr. Ramstad		X	
Mr. Lewis (GA)	X			Mr. Johnson		X	
Mr. Neal	X			Mr. English	X		
Mr. McNulty	X			Mr. Weller		X	
Mr. Tanner	X			Mr. Hulshof		X	
Mr. Becerra	X			Mr. Lewis (KY)		X	
Mr. Doggett	X			Mr. Brady		X	
Mr. Pomeroy	X			Mr. Reynolds	X		
Ms. Tubbs Jones	X			Mr. Ryan		X	
Mr. Thompson	X			Mr. Cantor		X	
Mr. Larson	X			Mr. Linder		X	
Mr. Emanuel	X			Mr. Nunes		X	
Mr. Blumenauer	X			Mr. Tiberi		X	
Mr. Kind	X			Mr. Porter		X	
Mr. Pascrell	X						
Ms. Berkley	X						
Mr. Crowley	X						
Mr. Van Hollen	X						
Mr. Meek	X						
Ms. Schwartz	X						
Mr. Davis	X						

VOTES ON AMENDMENTS

A roll call vote was conducted on the following amendments to the Chairman's Amendment in the Nature of a Substitute.

An amendment by Mr. Johnson, which would strike the provisions in the Chairman's amendment in the nature of a substitute requiring merit-based staff to administer TAA, was defeated by a roll call vote of 16 yeas to 25 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English		X	
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Emanuel		X		Mr. Nunes	X		
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. Weller, which would provide the Secretary of Labor with waiver authority to allow States to use Unemployment Insurance funds for demonstration projects promoting rapid reemployment, was defeated by a roll call vote of 17 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes	X		
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. Ryan, requiring new TAA performance accountability measures, was defeated by a roll call vote of 17 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes	X		
Mr. Blumenauer		X		Mr. Tiberi	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. Reynolds, which would strike the tax credit bond provision from the Chairman's amendment in the nature of a substitute and replace it with a modification of the New Markets Tax Credit applicable to trade-affected communities, was defeated by a roll call vote of 17 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes	X		
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. Herger, which would modify the TAA training provisions in the Chairman's amendment in the nature of a substitute, was defeated by a roll call vote of 16 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes			

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. Herger, which would strike the FUTA surtax extension in the Chairman's amendment in the nature of a substitute, was defeated by a roll call vote of 16 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra		X		Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes			
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

An amendment by Mr. McCrery, in the nature of a complete substitute to the Chairman's amendment in the nature of a substitute, was defeated by a roll call vote of 17 yeas to 23 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Rangel		X		Mr. McCrery	X		
Mr. Stark		X		Mr. Herger	X		
Mr. Levin		X		Mr. Camp	X		
Mr. McDermott		X		Mr. Ramstad	X		
Mr. Lewis (GA)		X		Mr. Johnson	X		
Mr. Neal		X		Mr. English	X		
Mr. McNulty		X		Mr. Weller	X		
Mr. Tanner		X		Mr. Hulshof	X		
Mr. Becerra				Mr. Lewis (KY)	X		
Mr. Doggett		X		Mr. Brady	X		
Mr. Pomeroy		X		Mr. Reynolds	X		
Ms. Tubbs Jones		X		Mr. Ryan	X		
Mr. Thompson		X		Mr. Cantor	X		
Mr. Larson		X		Mr. Linder	X		
Mr. Emanuel		X		Mr. Nunes	X		
Mr. Blumenauer		X		Mr. Tiberi	X		
Mr. Kind		X		Mr. Porter	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Pascrell		X					
Ms. Berkley		X					
Mr. Crowley		X					
Mr. Van Hollen		X					
Mr. Meek		X					
Ms. Schwartz		X					
Mr. Davis		X					

IV. BUDGET EFFECTS OF THE BILL

COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following Statement is made concerning the effects on the budget of this bill, H.R. 3920, as reported:

The bill is estimated to have the following effects of Federal budget receipts for fiscal years 2008–2017:

ESTIMATED REVENUE EFFECTS OF THE TAX PROVISIONS CONTAINED IN H.R. 3920, THE "TRADE AND GLOBALIZATION ASSISTANCE ACT OF 2007," AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

Fiscal Years 2008 - 2017

[Millions of Dollars]

Provision	Effective	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008-12	2008-17
A. Modifications to the Health Coverage Tax Credit [1] [2]													
1. Sunset the Health Coverage Tax Credit 12/31/09	mba 12/31/07	---	---	244	287	297	306	316	328	341	355	827	2,474
2. Increase health care credit rate to 85% and other changes to the credit (sunset 12/31/09)	mba 12/31/07	-238	-334	-185	-61	-20	---	---	---	---	---	-838	-838
B. Extension of FUTA Surtax of 0.2 Percent (sunset 12/31/10) [3]	1/1/08	1,041	1,459	1,478	415	---	---	---	---	---	---	4,393	4,393
C. Manufacturing Redevelopment Zones													
1. Manufacturing redevelopment zone tax credit bonds ($150 million allocation per zone)	bia 12/31/07	-10	-59	-145	-209	-224	-220	-215	-211	-206	-202	-647	-1,701
2. Manufacturing redevelopment zone private activity bonds ($230 million allocation per zone)	bia 12/31/07	-4	-17	-48	-76	-84	-82	-79	-77	-75	-72	-230	-615
3. Increase the low-income housing credit cap for manufacturing redevelopment zones ($20 per capita)	cyba 2007	-2	-14	-30	-38	-40	-40	-40	-40	-40	-40	-124	-324
4. Expansion of the Work Opportunity Tax Credit	wpoifibwa DOE	-2	-14	-27	-28	-17	-6	-3	-1	---	---	-89	-99
D. Delay Implementation of Worldwide Interest Allocation	DOE	---	999	2,736	2,845	1,987	---	---	---	---	---	8,567	8,567
NET TOTAL		**785**	**2,020**	**4,023**	**3,135**	**1,899**	**-42**	**-21**	**-1**	**20**	**41**	**11,859**	**11,857**

Joint Committee on Taxation

NOTE: Details may not add to totals due to rounding. Date of enactment is assumed to be December 1, 2007.

[Legend and Footnotes for the Table appear on the following page]

Legend and Footnotes for the Table:

Legend for "Effective" column:

bia = bonds issued after
cyba = calendar years beginning after
DOE = date of enactment
mba = months beginning after
wpoifibwa = wages paid or incurred for individuals beginning work after

[1] Baseline assumes permanent extension of the Trade Adjustment Assistance program; thus the sunset of the credit after 2009 raises revenues relative to the baseline.
[2] Estimate includes a decrease in outlays of $1,145 million over 10 years.
[3] Estimate provided by the Congressional Budget Office and does not include interaction effects associated with the provision providing for special transfers to State accounts in the Unemployment Trust Fund (section 302 of the bill).

STATEMENT REGARDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves new or increased budget authority. The Committee further states that the revenue-reducing tax provisions involve increased tax expenditures. (See amounts in the Congressional Budget Office estimate provided below and in the table in Part IV.A., above.)

COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following report prepared by the CBO is provided.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 29, 2007.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3920, the Trade and Globalization Assistance Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Anthony.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 3920—Trade and Globalization Assistance Act of 2007

Summary: H.R. 3920 would reauthorize and expand coverage for the Trade Adjustment Assistance (TAA) programs, which are scheduled to expire on December 31, 2007. The bill also would:

- Amend provisions in current law that authorize health care benefits for certain individuals,
- Provide special transfers to states from the federal unemployment trust funds,
- Extend an expiring provision of the Federal Unemployment Tax Act (FUTA),
- Authorize new tax incentives for areas experiencing significant declines in manufacturing activity, and
- Delay the implementation of tax rules related to the allocation of interest expenses.

CBO and the Joint Committee on Taxation (JCT) estimate that enacting H.R. 3920 would increase direct spending by $0.3 billion in 2008 and $8.6 billion over the 2008–2017 period. In addition, CBO and JCT estimate that revenues under the bill would increase by $1.0 billion in 2008 and $9.4 billion over the 2008–2017 period.

CBO also estimates that implementing H.R. 3920 would increase spending for discretionary programs authorized in the bill by $30 million in 2008, and $338 million over the 2008–2012 period, assuming appropriation of the estimated amounts.

CBO reviewed the non-tax and employment insurance provisions of the bill and determined that the bill would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). The bill would allow the Secretary of Labor to subpoena information from state and local governments to determine whether their workers have been adversely affected by trade. CBO estimates that the costs to governments to comply with a subpoena would be small and well below the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation). JCT reviewed the tax provisions of the bill and has determined those provisions contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

JCT determined that the tax provisions of the bill contain two private-sector mandates. CBO has determined that the employment insurance provisions of the bill also contain a private-sector mandate. In aggregate, the costs of all the mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3920 is shown in Table 1. The costs of the legislation fall under budget functions 350 (agriculture), 450 (community and regional development), 500 (education, employment, training and social services), 550 (health), and 600 (income security).

TABLE 1.—BUDGETARY EFFECTS OF H.R. 3920

	By fiscal year, in millions of dollars—						
	2008	2009	2010	2011	2012	2008–2012	2008–2017
CHANGES IN DIRECT SPENDING							
Estimated Budget Authority	357	1,044	1,009	957	966	4,333	9,236
Estimated Outlays	257	809	889	927	941	3,823	8,641
CHANGES IN REVENUES							
Total Revenues	952	2,254	3,931	2,829	1,452	11,415	9,370
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Changes in Spending Subject to Appropriation:							
Estimated Authorization Level	129	143	144	144	144	704	n.a.
Estimated Outlays	30	51	79	89	89	338	n.a.

Note: n.a. = not applicable.

Basis of estimate: For this estimate, CBO assumes that H.R. 3920 will be enacted early in fiscal year 2008, that the full amounts authorized will be appropriated for each year, and that outlays will follow historical patterns.

Direct spending

H.R. 3920 would reauthorize, expand coverage for, and increase benefits under the TAA for Workers program. (Authorization for the current program expires on December 31, 2007.) In addition, the bill would amend provisions related to health care benefits that are available to individuals who receive TAA benefits and individuals who receive their pension checks from the Pension Benefit Guaranty Corporation (PBGC). The bill also would make funding available to the states for their unemployment compensation pro-

grams, and would encourage the states to adopt laws that cover more people. In total, CBO estimates that enacting H.R. 3920 would increase direct spending by $0.3 billion in 2008, and $8.6 billion over the 2008–2017 period, as shown in Table 2.

TAA for Workers. H.R. 3920 would reauthorize the TAA for Workers program through fiscal year 2012. That program provides extended unemployment compensation for up to 104 weeks, typically called trade readjustment allowances (TRAs), for workers who lose their job as a result of increased international trade. Workers certified to be eligible for TAA also may receive benefits to offset the costs associated with retraining, job search, and relocation expenses. In addition, TAA beneficiaries are eligible to receive a subsidy for the costs of purchasing health insurance during their period of unemployment.

In fiscal year 2006, nearly 120,000 workers were certified as eligible to receive TAA benefits, and about 60,000 individuals started to receive cash and training benefits. TAA outlays, including the outlays from the health insurance subsidy, totaled about $775 million in 2006. Consistent with the budget projection rules in section 257 of the Deficit Control Act, the costs of extending TAA for Workers are included in CBO's baseline and are therefore not included in the costs attributable to this bill. CBO estimates those costs would total about $10.2 billion over the 2008–2017 period.

TABLE 2.—CHANGES IN DIRECT SPENDING UNDER H.R. 3920

	By fiscal year, in millions of dollars—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
TAA for Workers												
Service Workers and Other Eligibility Criteria:												
Estimated Budget Authority	50	210	220	230	240	250	260	270	285	295	950	2,310
Estimated Outlays	25	130	215	225	235	245	255	265	275	290	830	2,160
Industry-Wide Trade Adjustment Assistance:												
Estimated Budget Authority	0	50	105	110	115	120	120	125	130	135	380	1,010
Estimated Outlays	0	25	80	110	110	115	120	125	130	130	325	945
Program Benefits:												
Estimated Budget Authority	120	270	370	390	405	420	430	445	460	470	1,555	3,780
Estimated Outlays	55	175	300	370	395	410	425	435	450	465	1,295	3,480
Health Care Provisions [1]:												
Estimated Budget Authority	167	234	−41	−158	−194	−214	−221	−230	−239	−248	8	−1,145
Estimated Outlays	167	234	−41	−158	−194	−214	−221	−230	−239	−248	8	−1,145
Wage Insurance [2]:												
Estimated Budget Authority	15	60	75	80	85	85	85	90	90	90	315	755
Estimated Outlays	5	25	55	75	80	85	85	85	90	90	240	675
Subtotal:												
Estimated Budget Authority	352	824	729	652	651	661	674	700	726	742	3,208	6,711
Estimated Outlays	252	589	609	622	626	641	664	680	706	727	2,698	6,116
Unemployment Insurance:												
Estimated Budget Authority	5	220	280	305	315	320	300	260	255	265	1,125	2,525
Estimated Outlays	5	220	280	305	315	320	300	260	255	265	1,125	2,525
Total Changes:												
Estimated Budget Authority	357	1,044	1,009	957	966	981	974	960	981	1,007	4,333	9,236
Estimated Outlays	257	809	889	927	941	961	964	940	961	992	3,823	8,641
Memorandum: Spending Assumed in CBO's Baseline for TAA:												
Estimated Budget Authority	939	971	992	1,012	1,034	1,056	1,079	1,103	1,127	1,153	4,948	10,466
Estimated Outlays	694	917	990	1,010	1,032	1,054	1,077	1,101	1,125	1,150	4,643	10,150

Note: TAA = Trade Adjustment Assistance; components may not add up to totals because of rounding.

[1] Estimate of the direct spending effects of the health care provision are provided by the Joint Committee on Taxation.

[2] Based on consultation with the House Committee on the Budget, CBO has extended the costs of wage insurance through 2017.

In addition to reauthorizing the program, the bill would make several changes to the TAA for Workers program by:

- Increasing the number of workers certified as eligible for TAA by expanding eligibility to include service workers and relaxing some eligibility criteria,
- Providing industry-wide coverage,
- Raising benefit levels for all beneficiaries,
- Temporarily increasing health benefits, and
- Extending and expanding the wage insurance program.

In total, CBO estimates those changes would increase direct spending by $0.3 billion in 2008 and by $6.1 billion over the 2008 to 2017 period.

TAA for Service Workers and other eligibility criteria. Subtitle A of the bill would extend eligibility under the TAA for Workers program to individuals in the service and public sectors who lose their jobs as the result of increased imports of similar services or shifts in the location where those services are produced (overseas outsourcing). The subtitle also would make it easier for all workers to qualify for benefits when the eligibility criterion is that production shifted or that imports have increased. The subtitle would provide for the automatic certification of workers laid off from firms covered by an affirmative injury determination under certain U.S. trade laws. CBO estimates that those expansions in coverage would increase direct spending for TRAs by $25 million in fiscal year 2008 and $2.2 billion over the 2008–2017 period. (Those additional certified workers also would be eligible for training and other benefits under TAA. The costs of extending those benefits to the additional certified workers are discussed below under the heading "Program Benefits.")

Using methodology employed in previous estimates of expanding coverage and relaxing eligibility criteria, CBO estimates that the number of workers certified to receive TAA benefits would increase by nearly 80,000 workers a year. The bill would require the automatic certification of workers in industries that are covered by affirmative injury determinations of antidumping and countervailing duty cases investigated by the International Trade Commission (ITC). Based on historical determinations by the ITC and employment in the industries affected, CBO estimates that an additional 4,000 workers annually could be certified under that provision.

In order to collect those benefits, a certified worker must first exhaust his or her eligibility for regular unemployment compensation. Based on the CPS data, CBO expects that the majority of dislocated workers would find new employment before reaching that point. CBO estimates that, under the new provisions, on average, 22,000 additional certified individuals would begin to collect TRAs under the TAA for workers program each year, at an average cost of $10,000 per individual

Industry-Wide TAA. Beginning in 2009, subtitle B of the bill would require DOL to decide whether it should certify all workers in an industry once the department has certified three petitions in the same industry within a 180–day period. Based on our analysis of recent certifications by industry, CBO estimates that certifications of individuals under this provision could increase by about 20 percent—or by nearly 50,000 people per year. However, CBO expects that workers certified in this manner would be less likely to

claim benefits. Accounting for those effects, CBO estimates that just under 10,000 people per year would collect TRA under this provision, increasing costs for the TAA for Workers program by about $0.9 billion over the 2008–2017 period. (Individuals certified under the Industry-Wide provisions also would be eligible for training and other benefits. The costs of providing those benefits are discussed in the following section).

Program Benefits. Subtitle C would expand benefits available under the TAA for Workers program. CBO estimates that those benefit expansions would increase outlays by $55 million in 2008 and $3.5 billion over the 2008–2017 period. Significant provisions of the bill would:

- Raise the cap on training,
- Provide additional weeks of TRA,
- Codify the current practices related to funding administrative expenses, and
- Increase funding for certain services.

Raising the Cap on Training. Increasing the cap on training from $220 million to $440 million in 2008–and again to $660 million in 2010–would allow workers newly certified under the bill to receive training benefits, which average about $7,000 per enrollee. CBO estimates that nearly half of the cost of the benefit expansions (about $1.6 billion) would result from raising that cap. About 75 percent of those costs would stem from providing benefits to additional workers certified under the bill's eligibility expansions. CBO estimates that about 17,000 of those additional certified workers would enroll in training each year. The remaining costs would result from covering workers that would be certified under current law in years in which CBO estimates that the $220 million cap would otherwise be binding.

Providing Additional Weeks for Training. H.R. 3920 would allow certain beneficiaries in training programs to draw TRA for longer than under current law. The bill also would extend the deadline for beneficiaries to choose to receive training. CBO estimates that enacting those changes would cost about $1.1 billion over the next 10 years. About half of those costs would stem from providing an additional 26 weeks of TRA benefits for those individuals who require prerequisite training courses before they could begin their approved training. (Current law already allows that additional time for individuals requiring remedial training.)

Funding Administration and Case Management. Under current practice, DOL provides 15 percent of the training cap amount to the states for administrative expenses related to the TAA for Workers program. H.R. 3920 would codify that practice. The bill also would provide each state with a grant equal to 0.06 percent of the training funds for dedicated case management and employment services. CBO estimates that enacting those provisions would cost $0.7 billion over the 2008–2017 period.

Health Care Provisions. In addition, the bill would modify the health coverage tax credit (HCTC), which is a refundable tax credit for some health insurance costs that is available to workers who are eligible for TAA and individuals who receive their pension through the PBGC. By expanding eligibility for TAA, the bill would increase the number of individuals eligible for the HCTC. The bill also would increase the portion of health insurance expenses that

would be covered, and repeal the credit at the end of 2009. JCT estimates that the provision would increase outlays for the refundable tax credit by $167 million in 2008, and by $8 million over the 2008–2012 period, and reduce outlays by $1.1 billion over the 2008–2017 period. The effect on revenues is discussed below under the heading "Revenues."

H.R. 3920 would result in negligible savings to Medicaid by increasing the number of TAA beneficiaries and their dependents who would take the health insurance tax credit. In the absence of the tax credit, some portion of those workers would enroll in Medicaid under current law. Under the bill, those individuals instead would use the Health Coverage Tax Credit to enroll in a qualified health insurance plan. CBO estimates that these savings to Medicaid would be less than $500,000 in each year in fiscal years 2008 and 2009. CBO estimates that costs to Medicaid could rise in the years after the tax credit would expire, but does not expect those costs to be significant.

Wage Insurance. The Trade Act of 2002 created a pilot program for Alternative Trade Adjustment Assistance. That pilot allows individuals eligible for TAA who are age 50 and above to receive a wage subsidy in lieu of TRA and training benefits, if they took a lower paying job than the one they lost. That pilot program expires at the end of fiscal year 2008. Around 7,000 individuals received benefits of about $25 million under that pilot program through 2006. Because outlays for the program under current law are estimated to be less 7 than $50 million in the year in which the program expires, its costs are not assumed to continue in baseline.

H.R. 3920 would extend the program for an additional 5 years, and would rename it "Reemployment Trade Adjustment Assistance." The bill would increase the limit on annual wages for eligible reemployment to $60,000 from the current $50,000, and would increase the maximum wage benefit to $12,000 over two years from the current $10,000. H.R. 3920 also would allow beneficiaries more time to choose the wage insurance option, and would allow them to participate in TAA-subsidized training. Based on current participation levels, CBO estimates that 2 to 3 percent of certified workers would opt for the wage subsidy, roughly 7,000 people per year, and that the average subsidy received would total nearly $10,000 over the individual's eligibility period. In total, CBO estimates that enacting those amendments to the wage insurance program would increase direct spending by $5 million in fiscal year 2008 and $0.7 billion over the 2008–2017 period.

Unemployment Insurance. H.R. 3920 would provide transfers of up to $7.5 billion to the states for their unemployment compensation programs. Of that amount, $7 billion would be available to states that currently meet certain criteria or that change their laws to match those criteria. Another $500 million would be distributed among all of the states to improve unemployment insurance operations.

Based on current state laws, CBO estimates that most states either do not or will not meet the necessary criteria to receive their full share of the $7 billion that would be available. CBO estimates that a total of $2.4 billion would be distributed over the 10-year period; split about equally between states that currently meet the criteria and states that we expect would change their laws to meet

the necessary criteria. The amounts transferred to the state trust funds would be considered intragovernmental transfers within the federal budget and are not shown in our estimates of outlays and revenues. However, CBO expects those transfers would have an effect on unemployment compensation and state employment taxes. CBO estimates that outlays for unemployment compensation would increase by $2.5 billion from additional benefits paid by the states that would change their laws in order to meet the necessary criteria for them to draw their share of the $7 billion and from the special distribution to all states ($0.5 billion).

Revenues

The bill would modify unemployment insurance taxation, provide new tax incentives for areas with significant declines in manufacturing activity, modify the health coverage tax credit, and delay the implementation of tax rules related to allocation of interest expenses. CBO and JCT estimate that the bill would increase revenues by about $1.0 billion in 2008, $11.4 billion over the 2008–2012 period, and $9.4 billion over the 2008–2017 period, as shown in Table 3.

TABLE 3.—CHANGES IN REVENUES UNDER H.R. 3920

	By fiscal year, in millions of dollars—											
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–2012	2008–2017
Delay World-Wide Interest Application	0	999	2,736	2,845	1,987	0	0	0	0	0	8,567	8,567
Unemployment Compensation [1]	1,041	1,459	1,427	267	−253	−337	−314	−206	−69	36	3,941	3,051
Manufacturing Redevelopment Zones	−18	−104	−250	−351	−365	−348	−337	−329	−321	−314	−1,090	−2,739
Health Coverage Tax Credit	−71	−100	18	68	83	92	95	98	102	106	−3	491
Total Revenues	952	2,254	3,931	2,829	1,452	−593	−556	−437	−288	−172	11,415	9,370

Note: Components may not add up to totals because of rounding.

[1] Revenues associated with unemployment compensation estimated by CBO. All other revenue estimates are provided by the Joint Committee on Taxation.

Delay in Application of Worldwide Interest Allocation. The bill would delay until 2012 the effective date of a provision enacted in the American Jobs Creation Act of 2004 that, starting in 2009, allows businesses to use an alternative method for allocating their interest expenses between the United States, and foreign sources. JCT estimates that the delay would increase revenues by $8.6 billion over the 2009–2012 period.

Unemployment Compensation. The Federal Unemployment Tax Act (FUTA) imposes on employers an effective tax of 0.8 percent on the first $7,000 in wages paid annually to each employee. The 0.8 percent tax includes a 0.2 percent surtax that is scheduled to expire on December 31, 2007. The bill would extend the surtax to December 31, 2010, which CBO estimates would increase revenues by $1 billion in 2008 and by $4.4 billion over the 2008–2011 period.

In addition, the bill would provide for transfers to the states from the Federal Unemployment Account (FUA). CBO estimates that transfers of $2.4 billion would occur over the 2009–2012 period. Because the state funds are included in the unified federal budget, those transfers would have no immediate budgetary effect. However, CBO expects that some states would respond to the higher balances in their unemployment trust funds by increasing the unemployment benefits they pay or reducing their unemployment taxes. CBO estimates that the transfers would cause revenues on net to decrease by $452 million over the 2008–2012 period and $1.3 billion over the 2008–2017 period.

Manufacturing Redevelopment Zones. Under the bill, the Treasury Department would designate certain areas that have experienced significant declines in manufacturing activity as "manufacturing redevelopment zones," which would receive tax advantages such as the authority to issue additional tax credit and tax-exempt bonds. JCT estimates that the provisions would reduce revenues by $18 million in 2008, $1.1 billion over the 2008–2012 period, and $2.7 billion over the 2008–2017 period.

Revenues under HCTC. In addition, the bill would modify the health coverage tax credit, which is a refundable tax credit for some health insurance costs that is available to certain individuals: workers who are eligible for TAA and those who receive their pension from PBGC. By expanding eligibility for TAA, the bill would expand the coverage under the HCTC to additional individuals. The bill also would increase the portion of health insurance expenses that would be covered and repeal the credit at the end of 2009. JCT estimates that the changes would reduce revenues by $71 million in 2008 and by $3 million over the 2008–2012 period, and increase revenues by $491 million over the 2008–2017 period. (JCT also estimates that the provision would increase outlays for the refundable tax credit by $167 million in 2008, and by $8 million over the 2008–2012 period, and reduce outlays by $1.1 billion over the 2008–2017 period, as discussed above under the heading "Direct Spending.")

Spending subject to appropriation

In total, CBO estimates that H.R. 3920 would authorize the appropriation of $129 million in 2008 and $704 million over the 2008–2012 period. Appropriation of those amounts would result in

estimated outlays of $338 million over the next five years, as shown in Table 4.

Trade Adjustment Assistance for Farmers. The bill would authorize the appropriation of $81 million in 2008 and $90 million for each of fiscal years 2009 through 2012 for the TAA for Farmers program. TAA for Farmers assists eligible farmers to cope with increased import competition resulting from trade liberalization. Assuming appropriation of the authorized amounts, CBO estimates that implementing this section would cost $26 million in 2008 and about $166 million over the 2008–2012 period.

TABLE 4.—CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 3920

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
TAA for Farmers:					
Estimated Budget Authority	81	90	90	90	90
Estimated Outlays	26	35	35	35	35
TAA for Firms:					
Estimated Budget Authority	46	50	50	50	50
Estimated Outlays	13	13	40	50	50
Other Provisions:					
Estimated Budget Authority	2	3	4	4	4
Estimated Outlays	1	3	4	4	4
Total—Changes in Spending Subject to Appropriation:					
Estimated Budget Authority	129	143	144	144	144
Estimated Outlays	30	51	79	89	89

Note: TAA = Trade Adjustment Assistance.

Trade Adjustment Assistance for Firms. The bill would authorize the appropriation of $50 million for each of fiscal years 2008 through 2012 for the TAA for Firms program. The bill would strike language authorizing the appropriation of $4 million for the first three months of 2008 (see Public Law 110–89) for a net increase of $46 million for 2008. The TAA for Firms program provides financial assistance to manufacturers that have been adversely affected by import competition. The bill would expand the program to include service sector firms and would establish a demonstration program to help small- and medium-sized manufacturers gain access to resources to help them compete in foreign and domestic markets. Assuming appropriation of the specified amounts, CBO estimates that implementing these sections would cost $156 million over the 2008–2012 period.

Other Provisions. H.R. 3920 also would:

- Increase the number of TAA petitions to be reviewed and certified each year,
- Establish an office of Trade Adjustment Assistance within the Department of Labor to implement and oversee the administration of the TAA program,
- Require the Department of Labor to collect and disseminate data on all adversely affected workers who apply for or receive adjustment assistance,
- Require the Government Accountability Office to conduct studies on the health insurance tax credit allowed under section 35 of the Internal Revenue Code of 1986 and the procedures for the allocation of training funds, and

- Establish a Safety Net Review Commission to evaluate employment assistance programs and make recommendations for their improvement.

In total, based on similar activities, CBO estimates that these provisions would cost $1 million in 2008 and $16 million over the 2008–2012 period, assuming appropriation of the necessary amounts.

Estimated impact on state, local, and tribal governments: CBO reviewed the employment insurance provisions of the bill and determined that section 101 would impose an intergovernmental mandate as defined in UMRA. That section would extend trade assistance benefits to workers in public agencies. Because the Secretary of Labor is authorized under the act to subpoena information from employers for the purpose of certifying workers as adversely affected by trade, state and local government officials would be required, if subpoenaed, to attend hearings, provide testimony, or produce documents. That requirement would be an intergovernmental mandate as defined in UMRA; however, CBO estimates that the costs to comply with a subpoena would be small and well below the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation).

JCT reviewed the tax provisions of the bill and has determined those provisions contain no intergovernmental mandates as defined in UMRA.

In general, states that provide employment services, training, and supplemental assistance under cooperative agreements would benefit from the programs authorized in the bill. Any costs those states might incur to comply with program conditions would be incurred voluntarily.

Estimated impact on the private sector: JCT and CBO have determined that the bill contains private-sector mandates as defined in the Unfunded Mandates Reform Act. In aggregate, the costs of all the mandates in the bill would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

Tax provisions

JCT determined that the tax provisions of the bill contain two private-sector mandates: 1) Sunset of the health coverage tax credit; and 2) delayed implementation of worldwide interest allocation. Based on information provided by JCT, CBO has determined that the costs of those mandates could total several billion dollars over the next five years.

Employment insurance provisions

CBO determined the employment insurance provisions of the bill would impose a private-sector mandate, as defined in UMRA, because the bill would extend the FUTA surtax on employers that is currently scheduled to expire at the end of 2007. CBO estimates the cost of that mandate would be several billion dollars over the next four years.

Estimate prepared by: Federal Spending: TAA for Workers and Unemployment Compensation—Christina Hawley Anthony; Studies and reports—Chad Chirico; Revenues—Barbara Edwards; TAA for Firms—Daniel Hoople; TAA for Farmers—David Hull; Impact on

state, local, and tribal governments: Lisa Ramirez-Branum; Impact on the private sector: Ralph Smith.

Estimate approved by: Keith Fontenot, Deputy Assistant Director for Health and Human Resources, Budget Analysis Division; G. Thomas Woodward, Assistant Director for Tax Analysis.

MACROECONOMIC IMPACT ANALYSIS

In compliance with clause 3(h)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made by the Joint Committee on Taxation with respect to the provisions of the bill amending the Internal Revenue Code of 1986: the effects of the bill on economic activity are so small as to be incalculable within the context of a model of the aggregate economy.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee concluded that it was appropriate and timely to enact the sections included in the bill, as reported.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation: The Departments of Labor, Commerce, and Agriculture shall use the authority under Section 221 et seq. of the Trade Act of 1974, as modified by H.R. 3920, as amended, to better assist worker, firms, meet and overcome the challenges they confront as a result of the impact of trade and globalization. The Department of Labor shall also use the authority provided for by this legislation to promote reform of the unemployment insurance system by encouraging and rewarding States for taking specific steps to improve UI coverage for low-wage, part-time and other workers. Finally, the Department of the Treasury shall use its new authority to encourage the redevelopment of communities that have suffered substantial reductions in manufacturing employment.

CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee States that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ('The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States.')

INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the revenue provisions of the bill contain two Federal mandates on the private sector. Those two provisions are: (1) the sunset of the health coverage tax credit; and (2) the delay in the implementation of the worldwide interest allocation.

The Committee has determined that the revenue provisions of the bill do not impose a Federal intergovernmental mandate on State, local, or tribal governments.

APPLICABILITY OF HOUSE RULE XXI 5(1)(b)

Clause 5 of rule XXI of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the section of the bill, and states that the 70 bill does not involve any Federal income tax rate increases within the meaning of the Rule.

PRE-EMPTION CLARIFICATION

This information is provided in accordance with section 423 of the Congressional Budget Act of 1974. The Committee has determined that the bill, as reported, does not pre-empt State or local law.

TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any Committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Code and that have "widespread applicability" to individuals or small businesses.

LIMITED TAX BENEFITS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Ways and Means Committee has determined that the bill as reported contains no congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of that Rule.

VI. DISSENTING VIEWS

MINORITY DISSENTING VIEWS ON H.R. 3920, THE "TRADE AND GLOBALIZATION ASSISTANCE ACT OF 2007"

A. INTRODUCTION

We regret that we cannot support H.R. 3920, as introduced and as modified by the Chairman's amendment in the nature of a substitute, to amend and reauthorize the Trade Adjustment Assistance (TAA) program. We are disappointed that the bill does not reflect our proposals and is not the product of a bipartisan effort to reform and reauthorize the program. We find this particularly unfortunate because we and our Democratic colleagues on the Committee all agree that TAA is an important program for helping workers adversely affected by trade and that the program is in need of reform.

On October 12, Chairman Rangel released his discussion draft to us and to the public. We then released our own discussion draft a few days later. We participated, together with our Democratic colleagues, in an informal caucus on October 18 to discuss each other's ideas. We had sincerely hoped that this meeting and the days that followed would provide an opportunity to come to agreement over how best to extend and improve TAA, as well as the path forward for consideration of all of our pending Free Trade Agreements. We anticipated that our proposals would be considered by our Democratic colleagues as a contribution to a healthy policy debate, but it does not appear they seriously considered our ideas. In fact, when our Democratic colleagues voted against the Republican substitute and various amendments containing aspects of that substitute, they voted against each and every one of the key proposals contained in our TAA and globalization assistance legislation.

We write these dissenting views because H.R. 3920, as amended: (1) contains unacceptable policies, including tax hikes that discourage job creation in the United States; (2) perpetuates and inflates inefficiencies while significantly expanding TAA and its costs and raising other serious policy concerns; and (3) fails to include sensible and meaningful reforms and other policies contained in the Republican substitute that Ranking Member McCrery offered and all Republican members of the Committee supported.

We were gratified that Chairman Rangel, based on his comments at the conclusion of the Committee markup, stated that he would work with us on our proposals, and we still hope that our ideas can be incorporated into the bill before it is considered by the House.

B. TAA SHOULD BE CONSIDERED IN THE CONTEXT OF TPA AND THE TRADE AGENDA

At the outset, we believe that we should discuss TAA expansions in the context of initiatives to expand trade, such as through swift

passage of the Free Trade Agreements (FTAs) covering Peru, Panama, Colombia, and Korea, as well as through the extension of Trade Promotion Authority (TPA). Therefore, Ranking Member Herger offered an amendment (which he later withdrew) to extend TPA for five years, for purposes of continuing this discussion.

In our view, expanding trade is an essential part of our trade agenda, as is making sure that we create opportunities for American workers who may be dislocated because of trade to quickly reenter the workforce in productive and fulfilling jobs. We are alarmed to see that the debate seems to be focused on the latter point while ignoring the first point. Both must be considered.

Survey data from the Council of Economic Advisors shows that fewer than three percent of layoffs between 1996 and 2004 could be attributed to import competition or overseas relocation. Moreover, the rate of job creation in globally engaged companies is faster than the overall private-sector rate. Of course, any job lost is traumatic for the worker involved and his or her family, and we are deeply committed to making sure that Americans have the tools they need to adjust to the changing economy. However, we must not abandon our effort to seek new markets for our goods and services.

Simply put, the United States is the number one trading nation in the world, with a globally integrated economy that relies on commerce with the rest of the world to sustain economic growth and employment. Our trade agreements have helped bring down trade barriers abroad for America's growers, manufacturers and service providers. Our FTAs have brought proven results. Our FTA partners make up 7.3% of global Gross Domestic Product, but our exports to these countries comprise more than 42% of total U.S. exports. The U.S. trade balance with the twelve countries for which FTAs have been implemented under TPA improved by an overwhelming *162 percent* between 2001 and 2006, creating a trade surplus of $13.9 billion. Our trading partners become strong allies of the U.S., which is important for geopolitical reasons, and they also benefit from increased rule of law and economic transparency.

If we halt our trade agenda, we risk losing market share around the globe. Countries like China and blocs of nations like the European Union are busy working on trade agreements with each other that lock out American products. We have a narrowing window of opportunity to advance our American trade agenda. We do not have the choice to stand still because if we do so, our competitors will inevitably overtake us. We either advance with TPA, or we move backward as other countries liberalize trade on their own.

C. H.R. 3920, AS AMENDED, CONTAINS UNACCEPTABLE POLICIES AND IS COSTLY AND INEFFICIENT

H.R. 3920, as amended, is costly and promotes inefficiencies, and we have significant policy objections to a number of the bill's provisions. The bill would: dramatically enlarge the TAA program instead of reforming and better integrating it with other federal programs; create very expensive and, in some cases, unneeded new federal spending; expand and encourage Unemployment Insurance benefit collection without better helping laid off workers find new

jobs; and increase payroll and other taxes, harming job creation in the United States.

We attach a letter from the Secretary of Labor because we believe that the views she presents are an important part of the dialogue as well.

1. EXPANDING THE TAA PROGRAM AND ITS COSTS WHILE INFLATING INEFFICIENCIES

The existing TAA program is an important but expensive program. TAA already costs taxpayers $966.4 million per year, while providing assistance to only about 54,000 workers, costing an average of $18,000 per worker. H.R. 3920, as amended, would continue current inefficiencies and even inflate them, while also significantly expanding the TAA program and its costs. In fact, the Majority has been unable to tell us how much the total cost per worker would rise under their bill.

One example of the problematic increase in coverage is the expansion of TAA to provide benefits to federal, state, and local government employees, making it costly for the government to streamline and consolidate functions and deliver services more efficiently. The logic for providing government workers special assistance is unclear, at best. TAA has always been designed and intended to assist private sector workers adversely affected by trade in adjusting to the global economy. With all due respect to our hard-working government employees, their role in the economy is different, and H.R. 3920, as amended, would expand the program in a whole new direction. For these reasons, Ranking Member Herger offered an amendment to strike the expansion of TAA benefits to public agency employees. Unfortunately, the amendment was defeated.

2. UNNECESSARILY INCREASING FUNDING

H.R. 3920, as amended, would spend money where it is not needed, for example by initially doubling and then tripling the TAA training budget. But sufficient funds are currently available for all certified workers to have access to training. Since the cap was raised in 2003, and under the funding formula developed by the U.S. Department of Labor for allocating training funds to the states, sufficient funds have been available each year. In fact, funds have been available for distribution at the end of each fiscal year, and nearly $300 million is unspent.

3. INCREASING TAXES THROUGH DEFERRAL OF INTEREST ALLOCATION RULES

H.R. 3920, as amended, would be partly paid for by delaying interest allocation rules first enacted in 2004, which made good sense then and still do today. When implemented, they will address an unfairness in current law that can subject American companies doing business abroad to double taxation on their foreign income. It is indeed ironic that legislation that we had hoped would pave the way for consideration of the full trade agenda by restoring confidence in our global trading system would itself make U.S. companies less competitive.

During the markup, Republicans expressed concerns that this delay would be the first of many, as the Majority would find other "worthy" reasons to delay the implementation of the new rules, moving the goalposts over and over. That fear was proven true just a day later, when Chairman Rangel introduced his broad AMT bill, which includes a complete repeal of the new interest allocation rules. While we are doubtful that the full repeal bill will be enacted before the end of next year, it is clear that to prevent this or future Congresses from using the interest allocation as a cash cow, this delay should be deleted and the new rules should be allowed to take effect as scheduled after the end of 2008.

4. MAINTAINING INEFFICIENT AND INFLEXIBLE TRAINING OPTIONS

While the Republican substitute would increase flexible training opportunities for dislocated workers so that they are better positioned to return to work sooner, H.R. 3920, as amended, would pointlessly keep participants in the TAA program longer. Ranking Member Herger offered an amendment to include more flexible training options and include other training-related reforms and improvements from the Republican substitute, but unfortunately our Democratic colleagues rejected it on a party-line vote.

5. FAILING TO REQUIRE ACCOUNTABILITY

It is inexplicable to us why H.R. 3920, as amended, would provide for an additional $8.7 billion in direct spending over ten years but would not require accountability as to how that money or the money already committed will be spent on the TAA programs. It is our duty to the American people to make sure that we are spending their money wisely. The common sense performance measures in the Republican substitute and in the amendment offered by Representative Ryan would allow the Departments of Labor and Commerce to measure whether the TAA for workers and firms programs, respectively, are effective in getting workers quickly back to fulfilling employment without a loss in wages. Unfortunately, the Majority defeated this common-sense amendment on a party-line vote.

6. REQUIRING TAA BE ADMINISTERED ONLY BY CERTAIN STATE EMPLOYEES

H.R. 3920, as amended, would expand the government bureaucracy and increase costs by requiring that the TAA program be run only by so-called state "merit-based" employees (otherwise known as state Employment Service (ES) employees). This would mean that the states could not continue to exercise their discretion to administer the program using local staff, private sector contractors, 501(c)(3) non-profit contractors, or faith or community-based organization contractors, as they can today.

Today, 25 states use employees other than state ES employees to administer these services, such as service providers from local communities and private contractors, particularly to conduct skill assessments as part of individual employment plans for TAA workers. These states have determined that administering the program

in this way is the most effective means of providing services to their citizens.

Specifically, the flexibility that exists today allows for a high degree of "one-stop" integration of functional services provided through the Workforce Investment Act (WIA) together with TAA. WIA staff are usually not state "merit-based" employees, meaning they are not part of the state Employment Service. Therefore, these 25 states would clearly have their service models impacted if required to terminate services through non-state ES staff.

Moreover, customers who are enrolled in WIA today receive more in-depth assessment, counseling, case management, and post-training assistance. However, the assessments available to TAA customers through state ES employees are limited in scope and depth. In addition, we understand that ES employees are not generally trained in vocational counseling, thus limiting the quality of ES-provided assessments. Assessments provided to customers co-enrolled with WIA are generally considered to be of higher quality, more in-depth, and more likely to be provided by a staff person with some training in vocational counseling.

H.R. 3920, as amended, would make it very difficult for TAA participants to receive the full range of wrap-around services available under WIA and obtain the very best counseling. We believe that the legislation is inconsistent with our goal of extending TAA to help TAA recipients get back on their feet quickly.

For these reasons, Representative Johnson offered an amendment to strike the requirement in the Chairman's amendment in the nature of a substitute that only ES employees be used and to preserve the flexibility that states have and use today to provide the best range of services to recipients and to coordinate their programs with local programs, whether it be through state ES employees or others. Unfortunately, the amendment was defeated.

7. ENDING THE HEALTH COVERAGE TAX CREDIT

With regard to the permanent health coverage tax credit that exists in the current TAA program, H.R. 3920, as amended, is contradictory. First, it would greatly expand the benefit in ways that are not cost effective. Then it would terminate the entire credit in two years despite the fact that the benefit is permanent now. It is a dangerous gamble to terminate health coverage assistance that TAA participants depend on—whether the reason is a budget gimmick to reduce costs or a means to create leverage for a dramatic expansion agenda in the future.

8. PROMOTING FLAWED TAX INCENTIVES

The tax incentives in H.R. 3920, as amended, are flawed. The bill would create a large program of tax credit bonds to be used in new "manufacturing redevelopment areas." The qualified expenditures of these tax credit bonds are broadly and loosely defined to include expenditures such as "construction of public facilities" and "other economic activity." While we appreciate the Majority's decision to prevent these bonds from being stripped—a feature of particular concern with respect to similar tax credit bonds approved by the House in the energy bill earlier this year—we continue to believe that tax credit bonds are largely unproven and believe it more ap-

propriate to provide these incentives through more tested means, such as the New Markets Tax Credits in the Republican substitute. If the Majority continues to believe that tax credit bonds are the cure for all that ails America, then we urge them to provide more meaningful limits to states and municipalities as to how the proceeds of those bonds can be spent. This Committee learned this lesson with tax-exempt bonds the hard way; we need not repeat history with tax credit bonds.

We are concerned that to become a "manufacturing redevelopment area" and obtain the tax incentives under the bill, communities would have to give up their current designation as a renewal community, enterprise zone, or empowerment zone. We were pleased that the Chairman agreed with Representatives Tiberi and Reynolds that this could work an unfairness on businesses in those zones that have made investment and planning decisions in reliance on the tax benefits of the designation and agreed to work with them to craft appropriate transition relief.

9. INCREASING PAYROLL TAXES AND EXPANDING UNEMPLOYMENT BENEFITS INSTEAD OF HELPING WORKERS FIND NEW JOBS

H.R. 3920, as amended, would unnecessarily increase federal unemployment payroll taxes by extending the 0.2% FUTA surtax for another three years. This is expected to increase federal revenue by almost $5 billion, despite the fact that the federal unemployment trust funds currently hold $35 billion and federal program expenses under current law run about $4 billion per year, as was established at the markup. Thus this tax increase—extending yet again a supposedly "temporary" surtax created in the 1970s—is totally unnecessary.

The bill then suggests that it would make $7 billion available to states that either already have expanded eligibility for unemployment benefits to certain laid off workers, or that choose to do so in the next five years. This is a false promise—first, because most states would not access their promised share of that $7 billion, and second because even if they did the federal payments would be available once while the costs of paying for expanded benefits would be a state liability forever. Further, the categories of unemployed workers that states would have to cover to access this one-time infusion of federal funds include laid off workers not typically thought of as affected by globalization, such as those who quit their jobs and part-time workers. In so doing, the bill would raise taxes on nearly every employee, discouraging employment. It also would subsidize high tax and benefit states (for example, states that have already found a way to pay for such benefit expansions) at the expense of low tax and benefit states. The bill also promotes the long-run federal setting of unemployment benefit eligibility terms, in contravention of the history of state flexibility and control. Finally, while promoting more and longer unemployment benefit collection, the bill does nothing to help laid off workers more quickly find good jobs, which should be the program's ultimate goal.

10. CONCLUSION

Ultimately, H.R. 3920, as amended, would grossly expand entitlement programs and add to their current inefficiencies, without a

guarantee that the pending FTAs or TPA will ever be considered by Congress. The Republican substitute offered by Ranking Member McCrery is a more cost-effective approach that would give TAA participants more training options and access to more services through TAA and other programs so that they could gain the skills they need to return to work sooner.

D. Summary of Republican Substitute

1. Reforming TAA to better help workers adversely affected by trade

We strongly support the reauthorization of the TAA program, which has been successful in helping many adjust to trade. But TAA can and should be reformed.

The Republican substitute offered by Ranking Member McCrery would reauthorize for five years the TAA for workers, firms, and farmers programs. It would restructure the TAA for workers program from a predominantly income support program today that offers training and other benefits into a job retraining program that improves access to education and training and continues to provide income support, health care, and other benefits. The Republican substitute would make reforms and improvements in a number of areas, including the following:

a. TAA training reforms and improvements

The Republican substitute would make meaningful and important reforms and improvements relating to training benefits under the TAA program.

First, the Republican substitute would retain the current two years of income support for TAA for workers program participants who remain unemployed and train full-time, but it also would permit, in certain circumstances, two years of income support for those who work part-time and train part-time. We believe that this increased flexibility would give workers more choices and allow them to take charge of their lives and determine what is the best for them.

Second, the Republican substitute would improve TAA participants' access to training and education by providing "New Economy Scholarships" of up to $8,000 per participant that a participant could choose when to use over a four-year period on a range of training and education programs, even if the participant became reemployed. Today, TAA training is typically available for only two years. Moreover, while under current law, there is no specific monetary limit, the costs of training must be "reasonable," which is subject to judgment and uncertainty. The Republican substitute would provide certainty as well as a generous limit far exceeding current average usage. Specifically, the average cost of training under current law is only $3,060 per TAA participant and typically lasts only one year, so the $8,000 New Economy Scholarship would more than double the amount used. In the case of remedial education, the scholarship would amount to an extra $1,000, nearly tripling the average cost of training. The most common provider of occupational training is the local community or technical college. The limit of $8,000 over four years would be significantly greater than

the average cost of a two-year program at a community college (about $4,500 over two years) and would be similar to limits that apply to other federal postsecondary assistance (i.e., Pell grants).

Third, the Republican substitute would authorize $50 million for new capacity building grants for community colleges and other training providers to offer enhanced training to more TAA participants.

Fourth, the Republican substitute would provide TAA participants more flexible training and work options that are not available under current law, including:

- Allowing them to combine full-time work with either full-time or part-time training, or combine part-time work with either full-time or part-time training, whereas current law requires full-time training;
- Making TAA-eligible training programs that lead to a license, certificate or community college degree and are linked to a high-demand occupation, and apprenticeship programs; and
- Enabling TAA participants to begin training sooner—even prior to layoff. Current law forces workers to wait until more than a month after layoff. H.R. 3920, as amended, would inexplicably allow only workers certified through the industry-wide process, not the traditional firm-by-firm process, to train prior to layoff, and the Republican substitute would correct this problem. The substitute would also allow workers to focus on a job search sooner while receiving income support without also having to be in training or obtain a training waiver (as is required today).

Fifth, the Republican substitute would encourage better allocation of current training funding for the states (which has not been fully used today, as discussed above), by requiring the U.S. Department of Labor to report to Congress every six months on its allocation of funding to the states to better ensure funding is appropriately distributed.

Ranking Member Herger offered an amendment to include these training-related reforms and improvements to the Chairman's amendment in the nature of a substitute and strike its inconsistent provisions, but unfortunately the amendment was defeated on a strictly party-line vote.

b. Increased Health Coverage Tax Credit

The Republican substitute would increase the federal share of monthly TAA participant premiums for the Health Coverage Tax Credit (HCTC) from 65 percent today to 70 percent. It also would continue the HCTC benefit, unlike H.R. 3920, as amended, which would terminate this important benefit in two years.

c. New wage supplement

The Republican substitute would convert the existing wage insurance pilot program for older workers (Alternative TAA) into a transitional wage supplement available to all TAA participants (regardless of age) who become reemployed for at least 30 hours per week at low wages (defined as up to minimum wage plus $2.40).

It would allow such workers to also obtain the Health Coverage Tax Credit and TAA training.

d. Broader TAA eligibility criteria

The Republican substitute would broaden the criteria for eligible workers to include:

- Workers at downstream producers that are secondarily affected by imports or shifts in production to more countries (not just Canada and Mexico);
- Workers laid off due to a trade impact on an intangible product (e.g. software) produced by their firm and sent electronically (not just on disk) to customers; and
- Contract and leased workers under operational control of a firm producing an article (not just employees of the firm).

e. TAA performance accountability measures

The Republican substitute would establish performance accountability measures for evaluating the performance of the TAA for workers and firms programs and their results for participants. As noted in the previous section, Representative Ryan offered an amendment to include such accountability measures in the Chairman's amendment in the nature of a substitute, but unfortunately it was defeated on a strictly party-line vote.

f. Better integration of TAA and WIA

The Republican substitute would better integrate the TAA program with the U.S. Department of Labor's workforce investment system (WIA) and its One-Stop Career Centers. This would provide TAA participants with access to more services, such as career counseling, assessment, and job placement services.

g. Increased funding for TAA, for firms program

The Republican substitute would increase annual authorized funding for the TAA for firms program to address a backlog in approved but unfunded projects.

2. GOING BEYOND TAA TO HELP WORKERS, FIRMS AND COMMUNITIES AFFECTED BY TRADE, GLOBALIZATION AND OTHER JOB LOSS CAUSES

In addition to reforming the TAA program, the Republican substitute recognizes that the TAA program is only one tool in the policy toolbox for addressing the effects of trade, globalization and change.

a. Unemployment compensation improvements

The Republican substitute would better integrate the TAA program with other federal programs to more effectively equip American workers with the skills they need to adapt to change. For example, it would:

- Allow states to apply for waivers of unemployment compensation program rules to design more flexible benefits, including wage insurance and other approaches, to help laid-off workers more quickly return to work;
- Build on the successful model of welfare reform waivers, allowing states to implement similar demonstration projects to

test new ideas for improving unemployment benefit programs; and

- Ensure that projects are revenue neutral.

This concept is reflected in the "Unemployment Compensation Improvement Act of 2007" (H.R. 1513) introduced by Representative Weller earlier this year and in his amendment to the Chairman's amendment in the nature of a substitute, which was defeated on a strictly party-line vote.

The Republican substitute also includes a provision proposed in the President's FY2008 Budget that seeks to improve the collection of Unemployment Insurance overpayments and delinquent employer contributions through garnishment of federal income tax refunds. This system is already used by child support and other programs to successfully collect millions of dollars in program debt. This would provide the states with an important additional administrative tool to recover these debts, and builds on a provision already approved by the Committee and the House of Representatives on a bipartisan basis earlier this year as part of H.R. 2608, the "SSI Extension for Elderly and Disabled Refugees Act."

b. New Markets Tax Credit expansion

The Republican substitute contains proposals reflected in the "New Employment for Workers & Job Opportunities for Business Strength Act of 2007" (H.R. 3843) that was recently introduced by Representative Reynolds. The Republican substitute would expand the existing New Markets Tax Credit (NMTC) program to benefit firms and workers in local communities impacted by trade, globalization and other causes of job loss. The existing New Markets Tax Credit program provides tax incentives for companies who invest their capital in businesses operating in economically disadvantaged areas.

Specifically:

- The Republican substitute would provide an additional $500 million in New Markets Tax Credits for businesses and communities adversely affected by trade.
- These additional New Market Tax Credits would provide private capital to businesses operating in low-income census tracts which can also demonstrate qualification under the TAA for firms program.
- Other eligible businesses would be those operating in low-income areas who prospectively hire 40% or more TAA eligible employees.

By expanding the NMTC to assist communities impacted by trade, globalization and other causes of job loss, the Republican substitute would foster regional economic development in such communities.

E. Conclusion

For the foregoing reasons, we oppose H.R. 3920, as amended, and support the Republican substitute offered by Ranking Member McCrery. We remain hopeful that our concerns about the bill and its shortcomings can and will be addressed before House floor debate and in conference with the Senate and that we will have the

opportunity to have our views and proposals taken into account by our Democratic colleagues as this process moves forward.

JIM MCCRERY.
WALLY HERGER.
JIM RAMSTAD.
SAM JOHNSON.
JERRY WELLER.
RON LEWIS.
KEVIN BRADY.
PAUL RYAN.
ERIC CANTOR.
JOHN LINDER.
DEVIN NUNES.
PAT TIBERI.
JON PORTER.

VII. COMMITTEE CORRESPONDENCE

SECRETARY OF LABOR,
Washington, DC, October 23, 2007.

Hon. CHARLES RANGEL,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR CHAIRMAN RANGEL: This is to express the views of the Department of Labor on H.R. 3920, the "Trade and Globalization Act of 2007," as introduced. The Administration strongly opposes this bill as drafted but remains committed to improving the Federal government's system for providing much-needed assistance to American workers and to working with Congress to reform Trade Adjustment Assistance (TAA) in a way that will benefit workers adversely affected by trade liberalization initiatives.

This Administration's record of support for the TAA program and worker training is strong. Spending on TAA has more than doubled since 2001, and this Administration has launched numerous initiatives to strengthen education, retrain workers, promote economic competitiveness, and generally ensure that America is prepared for the challenges of a global economy.

The President recognizes that the Federal government has a responsibility to help displaced workers prepare for and find new jobs, or even new careers, and has made clear this Administration's support for reforming job training programs and improving TAA. While the benefits of trade and investment liberalization are overwhelmingly positive, the Federal government has a duty to ensure that those benefits are more broadly shared and that the negative impacts that are borne by a few are offset in the form of assistance to persons and firms that may be adversely affected.

In order to provide workers with meaningful assistance, the Department believes several fundamental TAA reforms are needed. First, the program must provide greater flexibility and enhanced access to training for eligible workers, including more opportunities to "earn and learn." This means providing training, including part-time training, to workers who become reemployed and to certain incumbent workers threatened by layoffs. Rather than establishing a separate, duplicative bureaucracy, services should be provided

through a streamlined and efficient service delivery system that ensures workers participating in TAA have improved access to other reemployment services. The bill as drafted does not provide these needed reforms.

The Department's major concerns with the bill are outlined below. In addition, the Department notes that, since the bill has only recently been made available for review, we have not had a chance to assess the true costs, which we believe would be very substantial. We look forward to analyzing the provisions further as to the costs, tax implications, and proposed offsets.

Expansion of TAA Eligibility to Workers Not Impacted By Trade. Under current law, to be certified as eligible to apply for assistance under TAA, a group of workers in a firm files a petition with the Secretary of Labor, who then determines whether layoffs or the threat of layoffs at the firm are related to trade. The bill would require, as an alternative to determinations relating to the workers' firm, that the Secretary conduct an investigation for industry-wide determinations of eligibility. This approach fails to distinguish between layoffs related to trade and layoffs that are due to domestic competition, technology change, or other factors, since conditions for firms within industries can vary widely. In addition, the bill requires the Secretary of Labor to automatically certify as eligible for TAA workers in a domestic industry covered by an injury determination under U.S. anti-dumping, countervailing duty, or safeguard laws if such workers file a petition for certification under the TAA program. There would be no investigation, as required under current law, to determine if the particular layoffs at the firm are related to trade or due to other factors. Currently, workers certified for TAA are less than 5% of workers who exhaust their Unemployment Insurance (UI) benefits. By using industry-wide certification to bring large numbers of workers not affected by trade into TAA, caseloads and costs could easily increase severalfold. The Administration opposes converting TAA from a trade-impact targeted program to a universal unemployment insurance and training program.

Expansion of TAA Eligibility to Service Sector and Public Agency Workers. Since the inception of the TAA program, the program has been targeted to workers involved in the production of an article. The bill expands TAA coverage to service sector workers whose job loss is related to increased imports of services, shifts in the provision of services to foreign countries, or who provide a service to a firm with TAA-certified workers. The bill would also expand eligibility to workers in public agencies. These expansions raise issues of workability (since there is limited data available on trade in services) and appropriateness of coverage (since services are a growing economic sector).

Duplicative Bureaucracy. Under current law, the Secretary of Labor is required to make every reasonable effort to arrange for the provision of employment services to TAA-certified workers under other Federal laws. This promotes coordination of Federal employment resources. The One-Stop Career Center system under Workforce Investment Act (WIA) provides access to a wide array of such services. However, instead of linking to the existing public workforce investment system, the bill requires the Secretary di-

rectly, or through the TAA agreements with the States, to provide specified employment services to TAA participants. The bill also adds two new funding sources within TAA to fund these services, although it is unclear how these services are intended to be provided if the new funding is exhausted. The Department believes separately funding these services under the TAA program would duplicate services already available under WIA.

In addition, the bill requires that all determinations of eligibility for training and trade readjustment allowances, as well as the administration of funds for case management and employment services, be carried out exclusively by state government employees (so-called "merit staff"). There is no evidence that suggests merit staff employees would carry out such activities more effectively than other types of employees. Mandating the use of merit staff would preclude State flexibility in determining how best to administer these activities, and would also hinder coordination with other programs in the One-Stop Career Center system that can benefit TAA workers.

Extension of Wage Insurance. The ATAA/Wage Insurance program was enacted as a 5-year demonstration project. The Department is not aware of evidence that justifies expansion of this model, and we believe there are questions as to whether this approach helps workers in the long term.

Expansion of Income Support. The bill provides an additional 26 weeks of Trade Readjustment Allowances (income support) for workers who are participating in training. Under current law, workers may receive up to 104 weeks of income support if participating in training, and up to 130 weeks if the training includes remedial education. Therefore, the bill provides for up to 130 weeks generally for participants in training, and up to 156 weeks where the training includes remedial education or prerequisites. The Department believes the current duration of income support is sufficient to assist workers who are in training, to help them return to the workforce.

Incentive Payments to Expand State UI Eligibility. The Department of Labor strongly opposes the provisions in the bill for incentive payments to those States that include specified benefit expansions in their State Unemployment Insurance (UI) program. UI benefit eligibility should continue to be a matter determined by the States, without special incentive payments promoting uniform national eligibility standards. Some States have already adopted these eligibility provisions and have been willing to absorb the costs of those expansions using State UI funds (although those States would also now receive these funds under this provision). These payments would only cover the new benefit outlays for a few years, after which State taxes would have to be increased to continue to support the benefit expansions. The Department does not believe these funds should be diverted from their current purpose, which is to make loans to States to pay UI benefits when State accounts become insolvent.

Expansion of Health Coverage Tax Credit. The bill also includes a number of changes to the Health Coverage Tax Credit (HCTC), which provides certain TAA and Pension Benefit Guaranty Corporation benefit recipients with a 65% credit for the costs of certain

qualified health insurance. The bill would expand the credit to cover 85% of such insurance, would extend the period of time during which beneficiaries receive the subsidy, and would require qualifying insurance to meet specific rating rules. The bill is inconsistent with the President's proposed modifications to the HCTC. The Department is concerned about expanding this government subsidy and introducing Federal regulations about health insurance pricing as well as the potential impacts of these changes.

The Department has other concerns regarding the bill, which we would be pleased to discuss with the Committee.

While the Administration strongly opposes this bill as drafted, we are committed to working with Congress to identify and enact into law improvements that would make TAA a more flexible and beneficial program that fulfills the government's responsibility to assist in returning to the workforce those workers adversely affected by trade liberalizing agreements.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ELAINE L. CHAO.

○