

109TH CONGRESS
1ST SESSION

S. 1963

To make miscellaneous improvements to trade adjustment assistance.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2005

Mr. BAUCUS introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To make miscellaneous improvements to trade adjustment
assistance.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Trade Adjustment Assistance Improvement Act of
6 2005”.

7 (b) **TABLE OF CONTENTS.**—

Sec. 1. Short title; table of contents.

TITLE I—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Calculation of separation tolled during litigation.

Sec. 102. Establishment of Trade Adjustment Assistance Advisor.

Sec. 103. Certification of submissions.

Sec. 104. Revision of eligibility criteria.

Sec. 105. Training.

Sec. 106. Funding for administrative costs.
 Sec. 107. Authorization of appropriations.

TITLE II—DATA COLLECTION

Sec. 201. Short title.
 Sec. 202. Data collection; study; information to workers.
 Sec. 203. Determinations by the Secretary of Labor.

TITLE III—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec. 301. Clarification of marketing year and other provisions.
 Sec. 302. Eligibility.

1 **TITLE I—TRADE ADJUSTMENT**
 2 **ASSISTANCE**

3 **SEC. 101. CALCULATION OF SEPARATION TOLLED DURING**
 4 **LITIGATION.**

5 Section 233 of the Trade Act of 1974 (19 U.S.C.
 6 2293) is amended by adding at the end the following:

7 “(h) SPECIAL RULE FOR CALCULATING SEPARA-
 8 TION.—Notwithstanding any other provision of this chap-
 9 ter, any period during which a judicial or administrative
 10 appeal is pending with respect to the denial by the Sec-
 11 retary of a petition under section 223 shall not be counted
 12 for purposes of calculating the period of separation under
 13 subsection (a)(2) and an adversely affected worker that
 14 would otherwise be entitled to a trade readjustment allow-
 15 ance shall not be denied such allowance because of such
 16 appeal.”.

1 **SEC. 102. ESTABLISHMENT OF TRADE ADJUSTMENT ASSIST-**
 2 **ANCE ADVISOR.**

3 (a) IN GENERAL.—Subchapter A of chapter 2 of title
 4 II of the Trade Act of 1974 is amended by inserting after
 5 section 221, the following new section:

6 **“SEC. 221A. ESTABLISHMENT OF TRADE ADJUSTMENT AS-**
 7 **SISTANCE ADVISOR.**

8 “(a) IN GENERAL.—There is established in the De-
 9 partment of Labor an office to be known as the ‘Office
 10 of the Trade Adjustment Assistance Advisor’. The Office
 11 shall be headed by a Director, who shall be responsible
 12 for providing assistance and advice to any person or entity
 13 described in section 221(a)(1) desiring to file a petition
 14 for certification of eligibility under section 221.

15 “(b) TECHNICAL ASSISTANCE.—The Director shall
 16 coordinate with each agency responsible for providing ad-
 17 justment assistance under this chapter or chapter 6 and
 18 shall provide technical and legal assistance and advice to
 19 enable persons or entities described in section 221(a)(1)
 20 to prepare and file petitions for certification under section
 21 221.”.

22 (b) TECHNICAL AMENDMENT.—The table of contents
 23 for title II of the Trade Act of 1974 is amended by insert-
 24 ing after the item relating to section 221, the following:

“Sec. 221A. Establishment of Office of Trade Adjustment Assistance Advisor.”.

1 **SEC. 103. CERTIFICATION OF SUBMISSIONS.**

2 Section 223 of the Trade Act of 1974 (19 U.S.C.
3 2273) is amended by adding at the end the following:

4 “(e) CERTIFICATION OF SUBMISSIONS.—If an em-
5 ployer submits a petition on behalf of a group of workers
6 pursuant to section 221(a)(1) or if the Secretary requests
7 evidence or information from an employer in order to
8 make a determination under this section, the accuracy and
9 completeness of any evidence or information submitted by
10 the employer shall be certified by the employer’s legal
11 counsel or by an officer of the employer.”.

12 **SEC. 104. REVISION OF ELIGIBILITY CRITERIA.**

13 (a) SHIFTS IN PRODUCTION.—Section 222(a)(2)(B)
14 of the Trade Act of 1974 (19 U.S.C. 2272(a)(2)(B)) is
15 amended to read as follows:

16 “(B) there has been a shift in production by
17 such workers’ firm or subdivision to a foreign coun-
18 try of articles like or directly competitive with arti-
19 cles which are produced by such firm or subdivi-
20 sion.”.

21 (b) WAGE INSURANCE.—

22 (1) IN GENERAL.—Section 246(a)(3) of the
23 Trade Act of 1974 (19 U.S.C. 2318(a)(3)) is
24 amended to read as follows:

25 “(3) ELIGIBILITY.—A worker in a group that
26 the Secretary has certified as eligible to apply for

1 adjustment assistance under section 223 may elect
2 to receive benefits under the alternative trade ad-
3 justment assistance program if the worker—

4 “(A) obtains reemployment not more than
5 26 weeks after the date of separation from the
6 adversely affected employment;

7 “(B) is at least 40 years of age;

8 “(C) earns not more than \$50,000 a year
9 in wages from reemployment;

10 “(D) is employed on a full-time basis as
11 defined by State law in the State in which the
12 worker is employed; and

13 “(E) does not return to the employment
14 from which the worker was separated.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Subparagraphs (A) and (B) of section
17 246(a)(2) of the Trade Act of 1974 (19 U.S.C.
18 2318(a)(2)) are amended by striking “para-
19 graph (3)(B)” and inserting “paragraph (3)”
20 each place it appears.

21 (B) Section 246(b)(2) of such Act is
22 amended by striking “subsection (a)(3)(B)”
23 and inserting “subsection (a)(3)”.

24 (c) DOWNSTREAM WORKERS.—Section 222(c)(3) of
25 the Trade Act of 1974 (19 U.S.C. 2272(c)(3)) is amend-

1 ed by striking “, if the certification of eligibility” and all
 2 that follows to the end period.

3 **SEC. 105. TRAINING.**

4 (a) **MODIFICATION OF ENROLLMENT DEADLINES.**—
 5 Section 231(a)(5)(A)(ii) of the Trade Act of 1974 (19
 6 U.S.C. 2291(a)(5)(A)(ii)) is amended—

7 (1) in subclause (I), by striking “16th week”
 8 and inserting “26th week”; and

9 (2) in subclause (II), by striking “8th week”
 10 and inserting “20th week”.

11 (b) **EXTENSION OF ALLOWANCE TO ACCOMMODATE**
 12 **TRAINING.**—Section 233 of the Trade Act of 1974 (19
 13 U.S.C. 2293) is amended by adding at the end the fol-
 14 lowing:

15 “(h) **EXTENSION OF ALLOWANCE.**—Notwithstanding
 16 any other provision of this section, a trade readjustment
 17 allowance may be paid to a worker for a number of addi-
 18 tional weeks equal to the number of weeks the worker’s
 19 enrollment in training was delayed beyond the deadline ap-
 20 plicable under section 231(a)(5)(A)(ii) pursuant to a waiv-
 21 er granted under section 231(c)(1)(E).”.

22 (c) **FUNDING FOR TRAINING.**—Section 236(a) of the
 23 Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

24 (1) in paragraph (1) by striking “Upon such
 25 approval” and all that follows to the end; and

1 (2) by amending paragraph (2) to read as fol-
2 lows:

3 “(2)(A) Upon approval of a training program
4 under paragraph (1), and subject to the limitations
5 imposed by this section, an adversely affected worker
6 covered by a certification issued under section 223
7 shall be eligible to have payment of the costs of that
8 training, including any costs of an approved training
9 program incurred by a worker before a certification
10 was issued under section 223, made on behalf of the
11 worker by the Secretary directly or through a vouch-
12 er system.

13 “(B) Not later than 6 months after the date of
14 enactment of the Trade Adjustment Assistance Im-
15 provement Act of 2005, the Secretary shall develop
16 and submit to Congress for approval a formula that
17 provides workers with an individual entitlement for
18 training costs to be administered pursuant to sec-
19 tions 239 and 240. The formula shall take into ac-
20 count—

21 “(i) the number of workers enrolled in
22 trade adjustment assistance;

23 “(ii) the duration of the assistance;

24 “(iii) the anticipated training costs for
25 workers; and

1 “(iv) any other factors the Secretary deems
2 appropriate.

3 “(C) Until such time as Congress approves the
4 formula, the total amount of payments that may be
5 made under subparagraph (A) for any fiscal year
6 shall not exceed fifty percent of the amount of trade
7 readjustment allowances paid to workers during that
8 fiscal year.”.

9 (d) APPROVED TRAINING PROGRAMS.—

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

13 (A) by striking “and” at the end of sub-
14 paragraph (E);

15 (B) by redesignating subparagraph (F) as
16 subparagraph (H); and

17 (C) by inserting after subparagraph (E)
18 the following:

19 “(F) integrated workforce training;

20 “(G) entrepreneurial training; and”.

21 (2) DEFINITION.—Section 247 of the Trade
22 Act of 1974 (19 U.S.C. 2319) is amended by adding
23 at the end the following:

1 “(18) The term ‘integrated workforce training’
2 means training that integrates occupational skills
3 training with English language acquisition.”.

4 **SEC. 106. FUNDING FOR ADMINISTRATIVE COSTS.**

5 Section 241 of the Trade Act of 1974 (19 U.S.C.
6 2313) is amended by adding at the end the following:

7 “(d) Funds provided by the Secretary to a State to
8 cover administrative costs associated with the performance
9 of a State’s responsibilities under section 239 shall be suf-
10 ficient to cover all costs of the State associated with oper-
11 ating the trade adjustment assistance program, including
12 case worker costs.”.

13 **SEC. 107. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—Section 245(a) of the Trade Act
15 of 1974 (19 U.S.C. 2317(a)) is amended by striking
16 “2007” and inserting “2012”.

17 (b) FIRMS.—Section 256(b) of the Trade Act of 1974
18 (19 U.S.C. 2346(b)) is amended—

19 (1) by striking “\$16,000,000” and inserting
20 “\$32,000,000”; and

21 (2) by striking “2007” and inserting “2012”.

22 (c) FARMERS.—Section 298(a) of the Trade Act of
23 1974 (19 U.S.C. 2401g(a)) is amended by striking
24 “2007” and inserting “2012”.

1 **TITLE II—DATA COLLECTION**

2 **SEC. 201. SHORT TITLE.**

3 This title may be cited as the “Trade Adjustment As-
4 sistance Accountability Act”.

5 **SEC. 202. DATA COLLECTION; STUDY; INFORMATION TO**
6 **WORKERS.**

7 (a) DATA COLLECTION; EVALUATIONS.—Subchapter
8 C of chapter 2 of title II of the Trade Act of 1974 is
9 amended by inserting after section 249, the following new
10 section:

11 **“SEC. 250. DATA COLLECTION; EVALUATIONS; REPORTS.**

12 “(a) DATA COLLECTION.—The Secretary shall, pur-
13 suant to regulations prescribed by the Secretary, collect
14 any data necessary to meet the requirements of this chap-
15 ter.

16 “(b) PERFORMANCE EVALUATIONS.—The Secretary
17 shall establish an effective performance measuring system
18 to evaluate the following:

19 “(1) PROGRAM PERFORMANCE.—A comparison
20 of the trade adjustment assistance program before
21 and after the effective date of the Trade Adjustment
22 Assistance Reform Act of 2002 with respect to—

23 “(A) the number of workers certified and
24 the number of workers actually participating in
25 the trade adjustment assistance program;

1 “(B) the time for processing petitions;

2 “(C) the number of training waivers grant-
3 ed;

4 “(D) the coordination of programs under
5 this chapter with programs under the Work-
6 force Investment Act of 1998 (29 U.S.C. 2801
7 et seq.);

8 “(E) the effectiveness of individual train-
9 ing providers in providing appropriate informa-
10 tion and training;

11 “(F) the extent to which States have de-
12 signed and implemented health care coverage
13 options under title II of the Trade Act of 2002,
14 including any difficulties States have encoun-
15 tered in carrying out the provisions of title II;

16 “(G) how Federal, State, and local officials
17 are implementing the trade adjustment assist-
18 ance program to ensure that all eligible individ-
19 uals receive benefits, including providing out-
20 reach, rapid response, and other activities; and

21 “(H) any other data necessary to evaluate
22 how individual States are implementing the re-
23 quirements of this chapter.

24 “(2) PROGRAM PARTICIPATION.—The effective-
25 ness of the program relating to—

1 “(A) the number of workers receiving ben-
2 efits and the type of benefits being received
3 both before and after the effective date of the
4 Trade Adjustment Assistance Reform Act of
5 2002;

6 “(B) the number of workers enrolled in,
7 and the duration of, training by major types of
8 training both before and after the effective date
9 of the Trade Adjustment Assistance Reform
10 Act of 2002;

11 “(C) earnings history of workers that re-
12 flects wages before separation and wages in any
13 job obtained after receiving benefits under this
14 Act;

15 “(D) reemployment rates and sectors in
16 which dislocated workers have been employed;

17 “(E) the cause of dislocation identified in
18 each petition that resulted in a certification
19 under this chapter; and

20 “(F) the number of petitions filed and
21 workers certified in each congressional district
22 of the United States.

23 “(c) STATE PARTICIPATION.—The Secretary shall
24 ensure, to the extent practicable, through oversight and
25 effective internal control measures the following:

1 “(1) STATE PARTICIPATION.—Participation by
2 each State in the performance measurement system
3 established under subsection (b) and shall provide
4 incentives for States to supplement employment and
5 wage data obtained through the use of unemploy-
6 ment insurance wage records.

7 “(2) MONITORING.—Monitoring by each State
8 of internal control measures with respect to perform-
9 ance measurement data collected by each State.

10 “(3) RESPONSE.—The quality and speed of the
11 rapid response provided by each State under section
12 134(a)(2)(A) of the Workforce Investment Act of
13 1998 (29 U.S.C. 2864(a)(2)(A)).

14 “(d) REPORTS.—

15 “(1) REPORTS BY THE SECRETARY.—

16 “(A) INITIAL REPORT.—Not later than 6
17 months after the date of enactment of the
18 Trade Adjustment Assistance Accountability
19 Act, the Secretary shall submit to the Com-
20 mittee on Finance of the Senate and the Com-
21 mittee on Ways and Means of the House of
22 Representatives a report that—

23 “(i) describes the performance meas-
24 urement system established under sub-
25 section (b);

1 “(ii) includes analysis of data col-
2 lected through the system established
3 under subsection (b); and

4 “(iii) provides recommendations for
5 program improvements.

6 “(B) ANNUAL REPORT.—Not later than 1
7 year after the date the report is submitted
8 under subparagraph (A), and annually there-
9 after, the Secretary shall submit to the Com-
10 mittee on Finance of the Senate and the Com-
11 mittee on Ways and Means of the House of
12 Representatives and release to the public a re-
13 port that includes the information collected
14 under clause (ii) of subparagraph (A).

15 “(2) STATE REPORTS.—Pursuant to regulations
16 prescribed by the Secretary, each State shall submit
17 to the Secretary a report that details its participa-
18 tion in the programs established under this chapter,
19 and that contains the data necessary to allow the
20 Secretary to submit the report required under para-
21 graph (1).

22 “(3) PUBLICATION.—The Secretary shall make
23 available to each State, to Congress, and to the pub-
24 lic, the data gathered and evaluated through the per-

1 formance measurement system established under
2 subsection (b).”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) COORDINATION.—Section 281 of the Trade
5 Act of 1974 (19 U.S.C. 2392) is amended by strik-
6 ing “Departments of Labor and Commerce” and in-
7 serting “Departments of Labor, Commerce, and Ag-
8 riculture”.

9 (2) TRADE MONITORING SYSTEM.—Section 282
10 of the Trade Act of 1974 (19 U.S.C. 2393) is
11 amended by striking “The Secretary of Commerce
12 and the Secretary of Labor” and inserting “The
13 Secretaries of Commerce, Labor, and Agriculture”.

14 (3) TABLE OF CONTENTS.—The table of con-
15 tents for title II of the Trade Act of 1974 is amend-
16 ed by inserting after the item relating to section
17 249, the following new item:

“Sec. 250. Data collection; evaluations; reports.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date that is 60 days
20 after the date of enactment of this Act.

21 **SEC. 203. DETERMINATIONS BY THE SECRETARY OF LABOR.**

22 Section 223(c) of the Trade Act of 1974 (19 U.S.C.
23 2273(c)) is amended to read as follows:

1 “(c) PUBLICATION OF DETERMINATIONS.—Upon
2 reaching a determination on a petition, the Secretary
3 shall—

4 “(1) promptly publish a summary of the deter-
5 mination in the Federal Register together with the
6 Secretary’s reasons for making such determination;
7 and

8 “(2) make the full text of the determination
9 available to the public on the Internet website of the
10 Department of Labor with full-text searchability.”.

11 **TITLE III—TRADE ADJUSTMENT**
12 **ASSISTANCE FOR FARMERS**

13 **SEC. 301. CLARIFICATION OF MARKETING YEAR AND**
14 **OTHER PROVISIONS.**

15 (a) IN GENERAL.—Section 291(5) of the Trade Act
16 of 1974 (19 U.S.C. 2401(5)) is amended by inserting be-
17 fore the end period the following: “, or in the case of an
18 agricultural commodity that has no officially designated
19 marketing year, in a 12-month period for which the peti-
20 tioner provides written request”.

21 (b) FISHERMEN.—Notwithstanding any other provi-
22 sion of law, for purposes of chapter 2 of title II of the
23 Trade Act of 1974 (19 U.S.C. 2271 et seq.) fishermen
24 who harvest wild stock shall be eligible for adjustment as-

1 sistance to the same extent and in the same manner as
2 a group of workers under such chapter 2.

3 **SEC. 302. ELIGIBILITY.**

4 (a) IN GENERAL.—Section 292(c)(1) of the Trade
5 Act of 1974 (19 U.S.C. 2401a(c)(1)) is amended by strik-
6 ing “80 percent” and inserting “90 percent”.

7 (b) NET FARM INCOME.—Section 296(a)(1)(C) of
8 the Trade Act of 1974 (19 U.S.C. 2401e(a)(1)(C)) is
9 amended by inserting before the end period the following:
10 “or the producer had no positive net farm income for the
11 2 most recent consecutive years in which no adjustment
12 assistance was received by the producer under this chap-
13 ter”.

○