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## TRADE ADJUSTMENT ASSISTANCE FOR WORKERS, FARMERS, FISHERMEN, COMMUNITIES, AND FIRMS ACT OF 2002

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FEBRUARY 4, 2002.—Ordered to be printed

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Mr. BAUCUS, from the Committee on Finance,  
submitted the following

### R E P O R T

together with

### MINORITY AND ADDITIONAL VIEWS

[To accompany S. 1209]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill (S. 1209) to amend the Trade Act of 1974, to consolidate and improve trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute and refers the bill as amended to the Senate with a recommendation that the bill do pass.

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## I. BACKGROUND AND SUMMARY

Trade Adjustment Assistance (TAA) was first enacted by the Trade Expansion Act of 1962 (P.L. 87-794) and substantially modified by the Trade Act of 1974 (P.L. 93-618). Until 1993, it consisted of two programs, TAA for workers and TAA for firms. A third TAA program, the North American Free Trade Agreement Transitional Adjustment Assistance program (NAFTA-TAA), was added by the North American Free Trade Agreement Implementation Act of 1993 (P.L. 103-182). Income support under both TAA and NAFTA-TAA for workers are entitlement programs. Other aspects of the TAA programs are subject to annual appropriations. The authorization for the three existing Trade Adjustment Assistance programs expired on September 30, 2001.

The purpose of the TAA programs is to provide assistance to workers who lose their jobs and firms that face layoffs as a consequence of import competition. Since it began, TAA for workers has covered mostly manufacturing workers, with a substantial portion of program participants being steel and automobile workers in the mid- to late-1970s to early 1980s, and light industry and apparel workers in the mid- to late-1990s. In fiscal years 1995 through 1999, the estimated number of workers covered by certifications under the two TAA for workers programs averaged 167,000 annually, reaching a high of about 228,000 in 1999, despite a falling overall unemployment rate. During the same period, approximately 784 firms were certified under the TAA for firms program. Participating firms represent a broad array of industries producing manufactured products, including auto parts, agricultural equipment, electronics, jewelry, circuit boards, and textiles, as well as some producers of agricultural and forestry products.

S. 1209 reauthorizes, reforms, and expands trade adjustment assistance. Its principal purposes are to combine the TAA and NAFTA-TAA programs for workers; broaden eligibility criteria and enhance program efficiency and accountability under the unified TAA for workers program; reauthorize the TAA for firms program; provide adjustment assistance to trade-impacted communities; and make TAA benefits available to farmers, ranchers, and fishermen.

Additionally, the bill contains three miscellaneous provisions. The first authorizes certain appropriations for the United States Customs Service, United States International Trade Commission, and Office of the United States Trade Representative in fiscal years 2002 and 2003 and expresses the sense of the Senate that customs user fees should be used only for the operations and programs of the Customs Service. The second provides for country of origin labeling of fish and shellfish products. The third creates a mechanism for eliminating circumvention of tariff-rate quotas on sugars, syrups, and sugar-containing products.

## II. GENERAL EXPLANATION

### A. CURRENT LAW

Title II of the Trade Act of 1974, as amended, authorizes three trade adjustment assistance programs for purposes of providing assistance to individual workers and firms that are adversely affected by import competition. Those programs are

The general TAA program for workers, which provides training and income support for workers adversely affected by import competition;

The TAA program for firms, which provides technical assistance to qualifying firms; and

The NAFTA-TAA program for workers, which provides training and income support for workers adversely affected by imports from or production shifts to Canada and/or Mexico.

All three trade adjustment assistance programs expired on September 30, 2001. A measure to continue the three trade adjustment assistance programs in their current form for 15 months (through December 31, 2002) was included in section 503 of H.R. 3090 as reported in the Senate by the Committee on Finance on November 9, 2001.

### B. RECENT FINDINGS

International trade and investment result in both benefits and costs to the U.S. economy. The benefits, which include greater consumer choice and lower prices, can be enjoyed by all Americans. But international trade and investment can also result in significant numbers of plant closings and job losses throughout the economy. These negative consequences are highly concentrated by industry, region, and worker demographics. Although the benefits of increased trade and investment on the economy as a whole may outweigh the costs borne by a few, these costs cannot be ignored. In the short-term, the rationale behind the trade adjustment assistance program is that, when the Government takes actions to liberalize trade, the Government has a responsibility to assist those workers adversely affected by the resulting increased trade and outward investment. Such assistance is a small price to pay in exchange for the benefits trade and investment provide to the economy as a whole. In the longer-term, moreover, providing effective retraining to American workers will ultimately enhance their ability, and that of their employers, to compete with their counterparts in other countries, enhancing the competitive advantages of the United States in international markets. TAA further enhances U.S. competitiveness by encouraging labor market flexibility, ensuring that workers are employed in the most productive industries.

In a recent survey, 66 percent of respondents agreed with the following statement: "I favor free trade, and I believe that it is necessary for the government to have programs to help workers who lose their jobs." K. Scheve & M. Slaughter, *Globalization and the Perceptions of American Workers* (Institute for International Economics 2001) at 96. That same study found, however, that nearly 57 percent of Americans surveyed believe that Government efforts to help retrain workers who have lost jobs due to international trade have not been adequate. *Id.* at 94, citing Program on Inter-

national Policy Attitudes (Oct. 1999). As William Reinsch, President, National Foreign Trade Council, testified at the Finance Committee's July 19 hearing on reauthorization of the trade adjustment assistance program, "[t]he obvious conclusion to draw, is that broad-based support for open trade is significantly enhanced by, if not dependent on, the government's commitment to assistance for the victims of the changes brought on by such trade." U.S. Senate, Committee on Finance, *Hearing on Trade Adjustment Assistance* (July 19, 2001) (hereinafter "July 19 Hearing Tr.") at 41.

Recent studies also make clear that trade-impacted workers face significant challenges in their efforts to adjust to job losses. In particular, the demographic characteristics of workers displaced from import-competing industries result, on average, in a more difficult adjustment than for other displaced manufacturing workers or for displaced American workers as a whole. As noted in L. Kletzer, *Job Losses from Imports: Measuring the Costs* (Institute for International Economics 2001) at 78–79, workers displaced from import-competing manufacturing jobs tend to be disproportionately older, less educated, and longer-tenured than other displaced manufacturing workers. These findings are consistent with Department of Labor data, which show that nationwide, almost two-thirds of TAA and NAFTA–TAA participants are women with an average age of 43; 25 percent have less than a high school education when laid off; and about 20 percent have limited English proficiency. U.S. General Accounting Office, *Trade Adjustment Assistance: Experiences of Six Trade-Impacted Communities*, GAO–01–838 at 19 (Aug. 2001). These demographic characteristics are statistically associated with a lower likelihood of reemployment. Indeed, survey data bear out that import-competing displaced workers become reemployed at consistently lower rates than displaced manufacturing workers as a whole. Kletzer at 78–79. Nor do the difficulties faced by trade-impacted workers end with reemployment. Rather, these workers experience an average 13 percent earnings loss in their new jobs. While some trade-impacted workers find jobs paying the same or more as their former employment, 25 percent report earnings losses of 30 percent or more. *Id.*

In 1999, Congress voted to reauthorize the three TAA programs for only 2 years, rather than the typical 5 years, in order to provide an opportunity to evaluate the programs and develop reform proposals. At that time, no major changes had been made in the programs in over 20 years, despite the fact that the United States had entered into many new trade liberalizing agreements and the volume of international trade and investment had increased significantly. In the Africa Growth and Opportunity Act of 1999, Congress requested the General Accounting Office (GAO) to perform several evaluations of TAA and identify areas where the programs could be improved. These evaluations included a study of numerous cases of trade-related plant closings and mass layoffs in various communities around the country.

At the same time, in response to several large plant closings in New Mexico due to increased imports and shifts in production to other countries, Senator Bingaman began working with various Government agencies to explore options for assisting the workers, firms, and communities adversely affected by the closings. This exercise revealed many weaknesses in the current programs and

highlighted areas which needed improvement, as discussed in H. Rosen, "A New Approach to Assist Trade-Affected Workers and Their Communities: the Roswell Experiment," 1 *Journal of Law and Border Studies* (2001).

In 2000 and 2001, the General Accounting Office released four reports evaluating current trade adjustment assistance programs for workers, firms, and communities. Those reports made the following findings and recommendations:

- Administration of the TAA and NAFTA-TAA programs should be simplified by standardizing time frames for workers to enter training, training waiver policies for certified workers, and time frames for completing certification investigations;

- Time limits for enrolling in training and permitted breaks in training are not flexible enough to accommodate training provider schedules and worker needs;

- All TAA programs lack effective performance measurement systems to track participant outcomes;

- Inconsistency between the period of time workers receive income support (18 months) and training (24 months) limit training options, particularly for workers with no high school diploma or limited English, and encourage workers to drop out before completing training;

- Unstable funding for training benefits results in delayed approval of training requests; and

- Existing TAA programs do little to assist trade-impacted communities develop human capital and physical infrastructure needed to attract employment and achieve long-term economic adjustment.

U.S. General Accounting Office, *Trade Adjustment Assistance: Trends, Outcomes, and Management Issues in Dislocated Worker Programs*, GAO-01-59 (Oct. 2000); U.S. General Accounting Office, *Trade Adjustment Assistance: Impact of Federal Assistance to Firms Is Unclear*, GAO-01-12 (Dec. 2000); U.S. General Accounting Office, *Trade Adjustment Assistance: Opportunities to Improve the Community Adjustment and Investment Program*, GAO/NSIAD-00-229 (Sept. 2000); U.S. General Accounting Office, *Trade Adjustment Assistance: Experiences of Six Trade-Impacted Communities*, GAO-01-838 (Aug. 2001).

On November 14, 2000, the Congressionally appointed, bipartisan U.S. Trade Deficit Review Commission released its final report. The Commission was chaired by Murray Weidenbaum, and made up of members C. Richard D'Amato, Michael R. Wessel, Dimitri B. Papadimitriou, Donald Rumsfeld, Carla A. Hills, Wayne D. Angell, Kenneth Lewis, Robert B. Zoellick, George Becker, Anne O. Krueger, and Lester C. Thurow. While members of the Commission differed sharply on the causes of and remedies for the current trade deficit, there was broad, bipartisan agreement on the need for expanded adjustment assistance. The Commission's report, which refers to TAA as a "much appreciated source of help and hope for trade-impacted workers," made a series of recommendations for improving the programs, including the following:

- Consolidate TAA and NAFTA-TAA, unifying and simplifying the programs' rules and regulations;

- Provide coverage to secondarily affected workers (i.e., workers in industries that supply trade-affected industries);

Provide for more local control and flexibility to improve the coordination of workers' needs and local educational and training course schedules;

Provide income support for a longer period, if more time is needed for training;

Provide adequate funds for the programs' benefits and administration;

Consider wage insurance as an option in addressing job displacement; and

Fill the gap in health insurance coverage between the time when a worker loses one job and starts another.

U.S. Trade Deficit Review Commission, *The U.S. Trade Deficit: Causes, Consequences and Recommendations for Action* (Nov. 2000), Chapter 5.

These themes were repeated in hearings on reauthorization of the trade adjustment assistance programs held before the Committee on Finance on July 19, 2001, and before the Subcommittee on International Trade on July 20, 2001. Witnesses at these hearings highlighted the need to:

Harmonize the timing and eligibility requirements for TAA and NAFTA-TAA;

Extend income support to 78 weeks to match available training benefits and make the training enrollment period more flexible to meet local needs;

Create program performance measures;

Assure an adequate and stable source of funding for worker training benefits under TAA and NAFTA-TAA and for technical assistance projects under the TAA for firms program;

Assist trade-impacted workers with the cost of health insurance to facilitate retraining;

Help trade-impacted communities respond to mass layoffs and achieve long-term economic adjustment; and

Make trade adjustment assistance benefits available to farmers, ranchers, and fishermen who often do not qualify for existing trade adjustment assistance programs.

U.S. Senate, Committee on Finance, *Hearing on Trade Adjustment Assistance* (July 19, 2001) (hereinafter "July 19 Hearing Tr."); U.S. Senate, Committee on Finance, Subcommittee on International Trade, *Hearing on Trade Adjustment Assistance* (July 20, 2001) (hereinafter "July 20 Hearing Tr.").

### III. SECTION-BY-SECTION ANALYSIS

#### *Section 1. Short title; table of contents*

##### PRESENT LAW

No provision.

##### EXPLANATION OF PROVISION

Section 1 of S. 1209, as amended, provides that the Act may be cited as the "Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002".

##### REASONS FOR CHANGE

The section names the legislation for identification purposes.

## TITLE I.—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

*Section 101. Adjustment Assistance for Workers*

Section 101 of the Act amends chapter 2 of title II of the Trade Act of 1974 by replacing the text in sections 221 through 250 with revised text described as follows.

*Section 221. Definitions*

## PRESENT LAW

Current section 247 provides specific definitions related to the trade adjustment assistance for workers program.

## EXPLANATION OF PROVISION

New section 221 provides specific definitions related to the revised trade adjustment assistance for workers program.

## REASONS FOR CHANGE

Revision is needed to define new terms and conform existing definitions to revised program requirements.

*Section 222. Agreements with States*

## PRESENT LAW

Current section 239 establishes the relationship between the Department of Labor and the States related to the trade adjustment assistance for workers program.

## EXPLANATION OF PROVISION

New section 222 establishes the relationship between the Department of Labor and the States related to the trade adjustment assistance for workers program. Specifically, section 222 coordinates the trade adjustment assistance program with the Workforce Investment Act of 1998 (WIA); outlines the responsibilities and rights the States have related to notification, data collection, review, and other such actions under the program; ensures that the services provided by States are approved by the Secretary of Labor; and ensures that unemployment insurance benefits are not denied as a result of any right to trade adjustment assistance payments made under this chapter.

## REASONS FOR CHANGE

The Workforce Investment Act did not exist when TAA and NAFTA-TAA were designed. After WIA became law in 1998, only minor conforming changes were made to the trade adjustment assistance for workers program. This legislation represents the first attempt to achieve true coordination between the Workforce Investment Act and the trade adjustment assistance for workers program. In particular, the purpose of section 222 is to assure that TAA-eligible workers are able to access TAA benefits through WIA one-stop partners in the same manner and to the same extent as any other worker eligible for those services. This provision does not, however, limit the benefits available to workers eligible for TAA to those benefits available under WIA, nor does it require provision of TAA or WIA services exclusively through WIA one-stop

partners where such benefits or services are not available from WIA one-stop partners.

*Section 223. Administration Absent State Agreement*

PRESENT LAW

Current section 240 requires the Department of Labor to arrange for the performance of TAA program functions when no agreement exists with a State. It further provides for judicial review of final determinations concerning entitlement to benefits under the TAA for workers program.

EXPLANATION OF PROVISION

New section 223 makes no substantive change.

REASONS FOR CHANGE

New section 223 contains editorial and conforming changes.

*Section 224. Data collection; evaluations; reports*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

Section 224 requires the Department of Labor to establish an effective performance measuring system to evaluate trade adjustment assistance program utilization, program performance, participant outcomes, and State participation and to report annually to the Senate Finance Committee and the House Ways and Means Committee the information collected. Section 224 requires the States to submit necessary program data to the Department of Labor and requires the Department of Labor to make public certain performance data.

REASONS FOR CHANGE

It is the view of the Committee that the Department of Labor currently does not have in place an adequate system for evaluating program utilization, performance, and outcomes for the TAA for workers and NAFTA-TAA programs. This is in part the result of a decision by Congress in 1981 to shift responsibility for data collection under the TAA programs to the States, as a consequence of which no uniform program statistics currently exist. This legislation reestablishes the Federal requirement to develop performance measures, based on data collected by the States. The Committee expects that the more comprehensive data collection mandated by this section will permit informed consideration by the Department of Labor, the States, and Congressional oversight committees of the effectiveness, resource needs, and priorities of the TAA for workers program. In establishing these reporting requirements, the Committee recognizes that a thorough analysis of certain of the required elements may not be possible in the initial report submitted to the Committee on Finance and the Committee on Ways and Means, but notes that all required elements should be fully addressed in annual reports thereafter.



*Section 225. Study by Secretary of Labor when International Trade Commission begins investigation*

PRESENT LAW

Current section 224 requires the International Trade Commission (ITC) to notify the Department of Labor when the ITC begins a section 202 (i.e., safeguard) investigation of a particular industry and requires the Secretary of Labor to report to the President concerning whether use of the trade adjustment assistance program would facilitate adjustment of workers in the affected industry.

EXPLANATION OF PROVISION

New section 225 makes no substantive changes in existing law.

REASONS FOR CHANGE

Section 225 contains technical and conforming changes.

*Section 231. Certification as adversely affected workers*

PRESENT LAW

Current sections 221 and 250 set forth requirements concerning who may file a petition for certification of eligibility to apply for TAA and NAFTA-TAA assistance, respectively. Under both programs, petitions may be filed by a group of workers or by their certified or recognized union or other duly authorized representative. TAA petitions are filed with the Secretary of Labor. NAFTA-TAA petitions are filed with the Governor of the relevant State and forwarded by him to the Secretary of Labor. Under section 223, the Secretary of Labor must rule on eligibility within 60 days after a TAA petition is filed. Under section 250, the Governor must make a preliminary eligibility determination within 10 days after a NAFTA-TAA petition is filed, and the Secretary of Labor must make a final eligibility determination within the next 30 days. Section 221 also sets forth notice and hearing obligations of the Secretary of Labor upon receipt of a TAA petition. Section 250 provides that, in the event of preliminary certification of eligibility to apply for NAFTA-TAA benefits, the Governor immediately provide the affected workers with certain rapid response services.

Current sections 222 and 250 set forth group eligibility criteria. Under TAA, the Secretary must certify a group of workers as eligible to apply for trade adjustment assistance if he determines (1) that a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) sales or production of such firm have decreased absolutely; and (3) imports of articles like or directly competitive with articles produced by such workers' firm contributed importantly to the total or partial separation or threat thereof, and to the decline in sales or production. Under NAFTA-TAA, group eligibility may be based on the same criteria set forth in section 222, but section 250 also provides for NAFTA-TAA eligibility where there has been a shift in production by the workers' firm to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm. Section 222 also includes special eligibility provisions with respect to oil and natural gas producers.

Current section 223 sets forth limitations on certifications. It provides that a TAA or NAFTA–TAA group certification shall not apply to any worker whose last total or partial separation from the firm before his application under section 231 occurred more than one year before the date of the petition on which certification was granted. Section 223 also requires the Secretary of Labor to publish a summary of each eligibility determination in the Federal Register and provides that the Secretary shall terminate a certification of eligibility if he determines that separations from a firm are no longer attributable to the statutory eligibility criteria.

#### EXPLANATION OF PROVISION

New section 231 combines the TAA and NAFTA–TAA programs, establishing a single program with a single set of group eligibility criteria and a single set of procedures and standards for filing and reviewing petitions, certifying eligibility, and terminating certifications of eligibility.

Section 231 expands the list of entities that may file a petition for group certification of eligibility to include employers, one-stop operators or one-stop partners, State employment agencies, and any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act. Section 231 also provides that the President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary of Labor to initiate a certification process under this chapter to determine the eligibility for trade adjustment assistance of a group of workers.

Section 231 creates a single process for filing and reviewing petitions for trade adjustment assistance for workers, under which all petitions are filed simultaneously with both the Secretary of Labor and the Governor of the State. Upon filing of the petition, the Governor is required to fulfill the requirements of any agreement entered into with the Department of Labor under section 222, to provide certain rapid response services, and to notify workers on whose behalf a petition has been filed of their potential eligibility for certain existing Federal health care, child care, transportation, and other assistance programs. Upon filing the petition, the Secretary of Labor must make his certification determination within 40 days and provide the notice required.

Under section 231, the eligibility criteria are revised and expanded in several respects. First, the requirement that there be an absolute decrease in sales or production has been eliminated, such that workers are eligible for TAA if (1) a significant number or proportion of the workers in such workers' firm have become or are threatened to become totally or partially separated; (2) the value or volume of imports of articles like or directly competitive with articles produced by that firm have increased; and (3) the increase in the value or volume of imports contributed importantly to the workers' separation or threat of separation. Second, eligibility is extended to workers who are separated due to shifts in production to any country. Third, eligibility is extended to adversely affected secondary workers. Eligible secondary workers include workers employed by supplier firms, downstream producers, and firms that provide contract services who are separated or threatened with sep-

aration if their separation is due to a loss of business with a firm where workers have been certified as eligible to apply for trade adjustment assistance. Fourth, a new special eligibility provision is added with respect to taconite pellet producers. Fifth, the Secretary of Labor is directed, within 6 months, to establish a program to provide trade adjustment assistance to domestic operators of motor carriers who are adversely affected by competition from foreign owned and operated motor carriers. The Secretary of Labor is also directed to put in place a system to collect data on adversely affected service workers and to conduct and report to the Congress within two years the results of a study on means for extending the trade adjustment assistance program to additional adversely affected service workers.

#### REASONS FOR CHANGE

Combining the TAA and NAFTA-TAA programs for workers into a single program with harmonized petition procedures and eligibility requirements will eliminate confusion and uncertainty among eligible workers who currently must apply under and choose between both programs. It will eliminate unnecessary discrimination between workers whereby workers from the same firm may receive different benefits. Unifying the programs will also reduce the administrative burden on the Department of Labor, the States, one-stops, and one-stop partners, with the effect of reducing administrative costs, improving program efficiency, and enhancing their ability to serve affected workers.

Expanding the list of entities that may file a TAA petition provides potentially eligible workers with more options for completing the application process and expands their access to knowledgeable sources of assistance in understanding application requirements. Further, by providing that the President, the Committee on Finance, or the Committee on Ways and Means may direct the Secretary of Labor to determine the eligibility for TAA of a group of workers, the Committee intends to address the situation where import competition is having an effect on an entire industry. In such cases, rather than making plant-by-plant eligibility determinations as is the current practice, the Secretary of Labor would consider whether the eligibility criteria are met on an industry-wide basis. This will significantly reduce the burdens on both the Department of Labor and eligible workers where otherwise multiple applications would need to be considered seriatim.

Expanding eligibility to include shifts in production to any country remedies the basic inequity in existing law, whereby a worker's eligibility depends on the country to which his production facility has relocated.

The Department of Labor estimates each manufacturing job in the United States economy supports another 0.95 of a job in a supplier industry. Expansion of eligibility to secondary workers reflects recognition that for every worker separated due to import competition or plant relocation, an additional secondary worker is likely to be displaced for the same reason and should receive the same adjustment assistance. This corrects the current inequity whereby workers employed by a closed facility are eligible to receive trade adjustment assistance, while contract workers providing services within the same plant and workers who make input parts for that

plant at another facility are not eligible for benefits if they lose their jobs as a result of the same plant closing. The Committee notes, however, that the definitions of “downstream producer” and “supplier” in section 221 are intended to exclude from the definition of secondary workers so-called “tertiary workers” who may become displaced in a community that loses a major employer. For example, if a local factory closes, and a worker at a nearby restaurant at which factory workers often eat lunch loses his job due to declining business, the restaurant worker would not be eligible for TAA as a secondary worker, because he does not supply parts to the factory, perform finishing operations on the product produced by the factory, or provide services under contract to the factory. Instead, these tertiary effects on local employment associated with mass layoffs are addressed in the trade adjustment assistance for communities provisions in Title III of the bill.

Under current law, eligibility for trade adjustment assistance is restricted to workers who produce “articles.” *Fortin v. Marshall*, 608 F.2d 525 (1st Cir. 1979); *Pemberton v. Marshall*, 639 F.2d 798 (D.C. Cir. 1981). Pursuant to the NAFTA binational panel decision in *In the Matter of Cross-Border Trucking Services*, Secretariat File no. USA-MEX-98-2008-01 (Feb. 6, 2001), the United States will be opening its borders to cross-border trucking services by Canadian- and Mexican-owned and operated motor carriers. This development may result in a loss of jobs by domestic operators of motor carriers. The bill makes it possible for this category of service workers to receive trade adjustment assistance in the event that they experience job loss due to competition from imports of motor carrier services. The bill will also create a data collection process which will facilitate the Committee’s future consideration of inclusion of additional categories of service workers in the trade adjustment assistance program. The Committee believes that the Secretary of Labor could satisfy the data collection requirements in this section through an extension of the current plant closing and dislocated worker surveys.

The Committee notes that the overall purpose served by this section is to extend eligibility for trade adjustment assistance to a more accurate and comprehensive group of adversely affected workers. Accordingly, the Committee intends the eligibility criteria to be interpreted liberally. In particular, the Committee cautions the Secretary of Labor against denying eligibility in cases where a short-term decline in imports is clearly inconsistent with a longer-term rising trend.

*Section 232. Benefit information to workers*

PRESENT LAW

Current section 225 requires that States and the Department of Labor provide workers eligible to apply for trade adjustment assistance with specific information on trade adjustment assistance, as well as other Federal assistance, for which they may be eligible.

EXPLANATION OF PROVISION

New section 232 makes editorial and conforming changes.

*Section 234. Comprehensive assistance*

## PRESENT LAW

Section 250 contains a comprehensive list of the benefits for which workers covered by a NAFTA–TAA certification are eligible.

## EXPLANATION OF PROVISION

New section 234 sets out a comprehensive list of the benefits for which workers covered by a TAA certification are eligible. These benefits include trade adjustment allowances as described in sections 235 through 238; employment services as described in section 239; training as described in section 240; job search allowances as described in section 241; relocation allowances as described in section 242; supportive services and wage insurance as described in section 243; and health insurance coverage options as described in Title VI of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002.

## REASONS FOR CHANGE

Section 234 revises the comprehensive list of benefits available under the trade adjustment assistance for workers program to reflect additional benefits made available by this legislation.

*Section 235. Qualifying requirements for workers*

## PRESENT LAW

Current section 231 establishes qualifying requirements that must be met in order for an individual worker within a certified group to receive trade adjustment assistance. In order to receive trade adjustment allowances, a certified worker must have been separated on or after the eligibility date established in the certification but within 2 years of the date of the certification determination; been employed for at least 26 of the 52 weeks preceding the separation at wages of \$30 or more a week; be eligible for and have exhausted unemployment insurance benefits; not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act; and be enrolled in a training program approved by the Secretary of Labor or have received a training waiver. Section 231 also sets forth permissible bases for granting a training waiver. Pursuant to section 250(d), training waivers are not available in the NAFTA–TAA program.

## EXPLANATION OF PROVISION

New section 235 maintains the individual eligibility requirements in current law, with the exception of revisions to provisions governing bases for granting training waivers. Section 235 provides that all workers who are eligible to apply for trade adjustment assistance may be considered for training waivers.

## REASONS FOR CHANGE

Section 235 creates a single set of eligibility requirements. It revises the training waiver provisions to provide needed flexibility so that program administrators can better serve eligible workers.

*Section 236. Weekly amounts*

## PRESENT LAW

Current section 232 sets the amount of trade adjustment allowances received by certified workers at State unemployment insurance levels and provides for coordination with unemployment insurance benefits and other Federal training benefits.

## EXPLANATION OF PROVISION

New section 236 includes technical and conforming changes.

*Section 237. Limitations on trade adjustment assistance allowances*

## PRESENT LAW

Current section 233 provides that each certified worker may receive trade adjustment allowances for a maximum of 52 weeks. Under current law, workers certified under the NAFTA-TAA program may not receive trade adjustment allowances unless enrolled in an approved training program either within 16 weeks of becoming eligible for unemployment insurance or within 6 weeks after being certified eligible to apply for trade adjustment assistance, whichever is later. The current TAA program has no comparable requirement, permitting a worker to postpone enrolling in training and receiving trade adjustment allowances until months after his separation.

Current law also provides that, in most circumstances, a worker is treated as participating in training during any week which is part of a break in training that does not exceed 14 days.

## EXPLANATION OF PROVISION

New section 237 increases the maximum time period during which a worker may receive trade adjustment allowances to 78 weeks and extends the permissible duration of a break in training to 30 days. Section 237 harmonizes training enrollment requirements in TAA and NAFTA-TAA by providing that, in order to receive trade adjustment allowances, all workers must enroll in an approved training program either within 16 weeks of becoming eligible for unemployment insurance or within 8 weeks after being certified eligible to apply for trade adjustment assistance, whichever is later. Section 237 clarifies that the prohibition on payment of trade adjustment allowances to a worker receiving on-the-job training does not apply to a worker enrolled in a non-paid customized training program or to a worker participating in the displaced worker self-employment training pilot program established pursuant to section 102 of this Act. Section 237 also clarifies that the requirement that a worker exhaust unemployment insurance benefits prior to receiving trade adjustment allowances does not apply to any extension of unemployment insurance by a State

using its own funds that extends beyond either the 26 week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

#### REASONS FOR CHANGE

The Committee believes that the effectiveness of the trade adjustment assistance program in retraining workers is hampered by the current mismatch between the duration of training (up to 104 weeks) and the duration of income support (up to 78 weeks, including 26 weeks of unemployment insurance). According to the GAO, “[p]rogram administrators, training providers, and workers in training consistently said that the TAA and NAFTA–TAA programs needed to close the gap between extended income support payments, which are provided for up to 18 months, and training, which is provided for up to 24 months. \* \* \* [T]he gap in income support is believed to create difficulties for workers in 2-year training programs because when income support payments stop, dislocated workers generally drop out of training because they cannot afford to remain in classes without financial assistance.” GAO, *Trade Adjustment Assistance: Experiences of Six Trade-Impacted Communities*, GAO–01–838 (Aug. 2001) at 15. GAO found that this gap limits some workers to training programs lasting 18 months or less, precluding them from pursuing a 2-year associate of arts degree program, which could result in higher earnings or better skills. The difficulty created by the income-training gap is particularly evident in the case of workers who require initial remedial courses (GED or English as a second language) before they can enter vocational training, because they may not have time to complete the latter within 18 months. *Id.* At the July 20 hearing of the Subcommittee on International Trade, Mr. Loren Yager of the GAO testified that, according to the most recent national data, approximately 80 percent of workers receiving TAA or NAFTA–TAA benefits had a high school education or less, compared to 42 percent in the overall labor force. July 20 Hearing Tr. at 6–7. According to William Reinsch, President, National Foreign Trade Council, testifying at the Committee’s July 19 hearing, “[a]n individual who takes the time during his benefit period to study English and/or get a GED often does not have time left in his benefit cycle to then enter into job training. So he has done the right thing, but he has run out of benefits and then does not have a lot of choices available to him.” July 19 Hearing Tr. at 44.

Section 237 also addresses two other timing issues which can sometimes deprive otherwise qualified workers from receiving trade adjustment allowances. The current NAFTA–TAA requirement that training enrollment occur within 6 weeks after certification is expanded to 8 weeks for all workers, permitting States more time for outreach and more flexibility to find appropriate training programs that start within the permitted period. In addition, many community colleges and other approved training providers have semester breaks that exceed 14 days in length. In order to permit workers to continue receiving trade adjustment allowances during a semester break, the permissible break in training is increased to 30 days.

Finally, by exempting State-financed extensions of unemployment insurance from the requirement that a worker exhaust unem-

ployment insurance before qualifying for trade adjustment allowances, the bill eliminates what would otherwise be a disincentive for States to provide displaced workers with extended unemployment benefits paid out of State funds and avoids shifting the burden of income support payments under the TAA program to the States.

*Section 238. Application of State laws*

PRESENT LAW

Current section 234 provides that State law shall determine a worker's eligibility for unemployment insurance benefits.

EXPLANATION OF PROVISION

New section 238 makes no substantive changes.

*Section 239. Employment services*

PRESENT LAW

Current section 235 requires the Secretary of Labor to make every reasonable effort to secure for certified workers counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law and permits the Secretary, whenever appropriate, to secure such services through agreements with the States.

EXPLANATION OF PROVISION

New section 239 makes no substantive changes.

*Section 240. Training*

PRESENT LAW

Current section 236 establishes the terms and conditions under which training is available to eligible workers; permits the Secretary of Labor to approve certain specified types of training programs and to pay the costs of approved training and certain supplemental costs, including subsistence and transportation costs, for eligible workers; and caps total annual funding for training under the TAA for workers program at \$80 million. Section 250 separately caps training expenditures under the NAFTA-TAA program at \$30 million annually.

EXPLANATION OF PROVISION

New section 240 revises the list of training programs which the Secretary of Labor may approve to include customized training. Section 240 revises the requirement in existing law that an adversely affected worker may not be approved for or continue to receive training benefits after he secures reemployment. The section provides that the Secretary may approve and pay the costs of training (or shall continue to pay the costs of training previously approved) for an adversely affected worker who secures reemployment for the completion of the training program or up to 26 weeks, whichever is less, after the date the adversely affected worker becomes reemployed. Section 240 sets the total funds available for



training expenditures under the unified TAA for workers program to \$300 million annually.

#### REASONS FOR CHANGE

The Committee believes that the purposes of the trade adjustment assistance program are better served when adversely affected workers are permitted to complete previously approved training, or undertake up to 26 weeks of approved training, despite securing re-employment. As reported by the GAO in August 2001, “state and local officials reported that insufficient federal funds are available for [TAA training] programs toward the end of the fiscal year (Department of Labor officials said these problems primarily occur in the first and last quarters of the fiscal year).” Moreover, “although Labor has issued formal guidance that states should not stop enrolling workers in program services and benefits when funding is temporarily unavailable, agency officials report that few states have done so.” GAO, *Trade Adjustment Assistance: Experiences of Six Trade-Impacted Communities*, GAO-01-838 (Aug. 2001) at 16.

The Committee estimates that, based on the changes included in this legislation, funding in the amount of \$300 million annually will be necessary to alleviate existing shortfalls in training funds and to provide adequate training for all eligible workers.

#### *Section 241. Job search allowances*

##### PRESENT LAW

Under current section 237, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive reimbursement of 90 percent of the cost of necessary job search expenses up to \$800.

##### EXPLANATION OF PROVISION

New section 241 raises the maximum reimbursement for job search expenses to \$1,200 per worker.

##### REASONS FOR THE CHANGE

Congress has periodically updated the maximum allowance for job search expenses to reflect inflation. The maximum allowance for job search expenses was last raised from \$600 to \$800 in the Deficit Reduction Act of 1984 (P.L. 98-369).

#### *Section 242. Relocation allowances*

##### PRESENT LAW

Under current section 238, when the Secretary of Labor determines that local employment is not available, an adversely affected worker certified eligible for TAA benefits may receive a relocation allowance consisting of (1) 90 percent of the reasonable and necessary expenses incurred in transporting a worker and his family, if any, and household effects, and (2) a lump sum equivalent to three times the worker’s average weekly wage, up to a maximum payment of \$800.

## EXPLANATION OF PROVISION

New section 242 raises the maximum lump sum portion of the relocation allowance to \$1,500.

## REASONS FOR THE CHANGE

Congress has periodically updated the maximum amount of the lump sum portion of the relocation allowance to reflect inflation. The maximum amount of the lump sum portion of the relocation allowance was last raised from \$600 to \$800 in the Deficit Reduction Act of 1984 (P.L. 98-369). In 2000, the average weekly wage for all private nonagriculture workers was \$474.38. Three times the average is \$1,423.14.

*Section 243. Supportive services; wage insurance*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Although certain supportive services are available to dislocated workers under WIA, current law makes no express linkage between these services and trade adjustment assistance and TAA certified workers may not be able to access them. New section 243 provides that States may apply for and the Secretary of Labor may make available to adversely affected workers certified under the trade adjustment assistance program supportive services available under WIA, including transportation, child care, and dependent care, that are necessary to enable a worker to participate in or complete training. Section 243 requires the Comptroller General to conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress; to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the study within one year of enactment of this Act; and to distribute the report to all WIA one-stop partners. Section 243 further provides that each State may conduct a study of its assistance programs for workers facing job loss and economic distress. Each State is eligible for a grant from the Secretary of Labor, not to exceed \$50,000, to enable it to conduct the study. In the event that a grant is awarded, the State must, within one year of receiving the grant, provide its report to the Committee on Finance and the Committee on Ways and Means and distribute its report to one-stop partners in the State.

Section 243 also directs the Secretary of Labor, within one year of enactment, to establish a wage insurance program under which a State uses the funds provided to the State for trade adjustment allowances to pay to an adversely affected worker certified under section 231, for a period not to exceed two years, a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation. An adversely affected worker may be eligible to receive a wage subsidy if the worker obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employ-

ment, is at least 50 years of age, earns not more than \$50,000 a year in wages from reemployment, is employed at least 30 hours a week in the reemployment, and does not return to the employment from which the worker was separated. The wage subsidy available to workers in the wage insurance program is 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation, if the wages the worker receives from reemployment are less than \$40,000 a year. The wage subsidy is 25 percent if the wages received by the worker from reemployment are greater than \$40,000 a year but not more than \$50,000 a year. Total payments made to an adversely affected worker under the wage insurance program may not exceed \$10,000 over the 2-year period. A worker participating in the wage insurance program is not to be eligible to receive any other trade adjustment assistance benefits, unless the Secretary of Labor determines that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

#### REASONS FOR CHANGE

The inclusion of wage insurance—together with self-employment training and community trade adjustment—in the trade adjustment assistance program, is part of an effort to focus the program on re-employment, rather than training alone. In particular, the Committee believes that wage insurance can be a more efficient and less costly solution to the problem of assisting older displaced workers to rejoin the workforce. At the July 20, 2001 hearing of the Subcommittee on International Trade concerning reauthorization of the trade adjustment assistance programs, Lori Kletzer, a noted labor economist from the University of California Santa Cruz and the Institute for International Economics, testified that data on displaced manufacturing workers show that older workers and workers with longer service on the old job are significantly less likely to be reemployed—or to be reemployed at a comparable wage—than younger and less-tenured workers. Moreover, the difficulties do not end with the transition to the next job. For reemployed import-competing displaced workers, the average earnings loss is 13 percent. Two-thirds earn less on their new job than they did on their old job. A quarter have earnings losses in excess of 30 percent. July 20 Hearing Tr. at 19–20. Responding to these statistics, the bipartisan U.S. Trade Deficit Review Commission recently recommended that “Congress consider \* \* \* ways of filling in the earnings gap created when new jobs initially pay less than previous jobs.” U.S. Trade Deficit Review Commission at 168. In particular, the U.S. Trade Deficit Review Commission recommended that Congress consider a program of wage insurance as an option for assisting displaced workers. According to the Commission, wage insurance “has the advantage of encouraging displaced workers to accept new jobs as quickly as possible and removes some of the reluctance to accepting new jobs that initially pay workers lower wages than their former jobs.” *Id.* at 168. Moreover, “for older workers, wage insurance may enable them to reach retirement while maintaining their standard of living and retirement savings.” *Id.* at 168. Finally, wage insurance creates an opportunity for workers to receive

on-the-job training, which studies show can often be a more efficient form of retraining. *Id.* at 167.

*Section 244. Payments to States*

PRESENT LAW

Current section 241 provides that the Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable that State as an agent of the United States to make payments necessary to carry out the trade adjustment assistance program and sets forth the terms and conditions under which payments to the States are made.

EXPLANATION OF PROVISION

New section 244 makes technical and conforming changes.

*Section 245. Liabilities of certifying and disbursing officers*

PRESENT LAW

Current section 242 limits the liability of Department of Labor certifying and disbursing officers with respect to payments under this chapter.

EXPLANATION OF PROVISION

New section 245 makes technical and conforming changes.

*Section 246. Fraud and recovery of overpayments*

PRESENT LAW

Current section 243 establishes rules governing fraud and establishes procedures for recovery of overpayments.

EXPLANATION OF PROVISION

New section 246 makes technical and conforming changes.

*Section 247. Criminal penalties*

PRESENT LAW

Current section 244 establishes criminal penalties for fraud.

EXPLANATION OF PROVISION

New section 246 makes technical and conforming changes.

*Section 248. Authorization of appropriations*

PRESENT LAW

Current section 245 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes of the TAA and NAFTA-TAA for workers programs for the period October 1, 1998 through September 30, 2001.

EXPLANATION OF PROVISION

New section 248 authorizes to be appropriated to the Department of Labor such sums as may be necessary to carry out the purposes

of the consolidated trade adjustment assistance for workers program for the period October 1, 2001, through September 30, 2006. It does not change the status of TAA for workers as an entitlement program.

*Section 249. Regulations*

PRESENT LAW

Current section 248 directs the Secretary of Labor to prescribe such regulations as may be necessary to carry out the TAA for workers and NAFTA–TAA programs.

EXPLANATION OF PROVISION

New section 249 makes no changes.

*Section 250. Subpoena power*

PRESENT LAW

Current section 249 provides the Secretary of Labor with authority to subpoena the attendance of witnesses and the production of evidence necessary for him to make a determination under the TAA and NAFTA–TAA programs and to enforce subpoenas through the United States district courts.

EXPLANATION OF PROVISION

New section 250 makes technical and conforming changes.

*Section 102. Small Business Administration Pilot Program*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

Section 102 amends the Trade Act of 1974 so that workers receiving trade adjustment assistance are eligible to pursue additional training through the Small Business Administration and to start their own businesses during the period in which they are receiving trade adjustment assistance benefits, without losing eligibility for trade adjustment allowances, training, and other benefits under the trade adjustment assistance program. The pilot program would allow eligible workers to access self-employment training, business plan counseling, and existing Small Business Administration programs for accessing capital without losing TAA benefits.

REASONS FOR CHANGE

Currently, the trade adjustment assistance program focuses on training displaced workers so that they can find new full-time employment. One of the criticisms of the existing program is that it is not flexible enough to achieve its purpose of re-employing displaced workers in sustainable jobs that pay high wages. In particular, the current program does little to assist workers who may wish to start their own businesses, even though self-employment may offer the best long-term prospects for income and job security. Under current law, a worker who starts up a business may be con-

sidered re-employed and therefore lose access to trade adjustment assistance benefits.

At the July 20, 2001, hearing of the Subcommittee on International Trade of the Committee on Finance, the subcommittee heard testimony from Mr. Robert Hamp, a small businessman and former steel worker from Pennsylvania who recently completed training under the trade adjustment assistance program. Through TAA, Mr. Hamp was able to obtain training in indoor air quality maintenance, but only one course in small business management and almost no assistance in preparing his business plan. As Mr. Hamp explained, "Looking at going into business for myself, it would have been nice to have something that would have allowed me to start that business during the training. I believe, had I done that, then I would have been considered to have full-time employment and my benefits would have been cut off." July 20 Hearing Tr. at 28. TAA income benefits end the last day of training classes, "so you are effectively unemployed again as soon as you have finished your classes. So now you have to scramble to get the business up and going, where you could not have started it prior to that date." *Id.* at 29.

The Committee recognizes that not all individuals who would like to start a business are prepared to do so and therefore concludes it is important for individuals to access training for starting and managing a business in order to assess whether they would be better served by self-employment than by seeking a job with a new employer. Because the Small Business Administration has existing programs that provide counseling and access to affordable capital for start-up businesses, this section directs the Administrator of the Small Business Administration to establish a 3-year pilot program that provides self-employment training to workers in the trade adjustment assistance program who are interested in starting their own businesses. Although the section directs the Small Business Administration to establish a pilot program, the Committee does not intend for the Small Business Administration to create a separate program. Instead, the Committee intends for the Small Business Administration to incorporate the pilot into its existing portfolio of programs that teach and counsel entrepreneurs about starting and managing a small business and seeking financing.

In order to track the development and implementation of this pilot into the Small Business Administration's programs, the agency is required to report to the authorizing Committees on a quarterly basis. It also requires the Small Business Administration to issue guidelines for implementing the program not later than 180 days after this legislation has been enacted.

## TITLE II.—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

### SECTION 201. REAUTHORIZATION OF TRADE ADJUSTMENT FOR FIRMS PROGRAM

#### PRESENT LAW

The Trade Adjustment Assistance for Firms program provides technical assistance to qualifying firms. Current Title II, Chapter 3, section 251 of the Trade Act of 1974 provides that a firm is eligible to receive trade adjustment assistance under this program if (1)

a significant number or proportion of its workers have become or are threatened to become totally or partially separated; (2) sales or production, or both, have decreased absolutely; and (3) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to the total or partial separations or threat thereof.

The authorization for the Trade Adjustment Assistance for Firms program expired on September 30, 2001. The TAA for Firms program is currently subject to annual appropriations and is funded as part of the budget of the Economic Development Administration in the Department of Commerce.

#### EXPLANATION OF PROVISION

Section 201 reauthorizes the Trade Adjustment Assistance for Firms program for fiscal years 2002 through 2006; expands the definition of qualifying firms to cover shifts in production; and authorizes appropriations to the Department of Commerce in the amount of \$16 million annually for fiscal years 2002 through 2006 to carry out the purposes of the Trade Adjustment Assistance for Firms program.

#### REASONS FOR CHANGE

In recent years, there has been an increase in the number of approved technical assistance projects for which no funds are available. Accordingly, the Committee believes that recent funding levels for the Trade Adjustment Assistance for Firms program have been inadequate and should be increased to no less than \$16 million annually.

### TITLE III.—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

#### *Section 301. Purpose*

#### PRESENT LAW

No provision.

#### EXPLANATION OF PROVISION

Section 301 states that the purpose of this title is to assist trade-impacted communities with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

#### REASONS FOR CHANGE

The economic dislocation which can result from import competition and shifts in production is not limited to the workers who lose their jobs or the firms that close their doors. Whole communities suffer both short-term and long-term economic effects. In a recent study of six trade-impacted communities, the GAO found that, in the short-term, communities that experienced major trade-related plant closures and layoffs in the mid- to late-1990s saw their unemployment rates rise dramatically. “Where the layoffs were particularly severe, the communities were not prepared to deal with the

workers' immediate needs, and local social service agencies were overwhelmed with requests for assistance." U.S. General Accounting Office, *Trade Adjustment Assistance: Experiences of Six Trade-Impacted Communities*, GAO-01-838 (Aug. 2001) at 10-11. Longer-term economic impact on the communities included "lost wage income, business tax revenues, and sales by firms that supplied or subcontracted to the closed plants. In addition, while many dislocated workers found new jobs, they often received lower wages. This caused concern in some communities that plant closures might lead to a decreased standard of living for a large portion of the community, as well as concerns about additional job losses if more plants in these industry sectors closed or relocated abroad." *Id.* at 2-3.

GAO found that the ability of trade-impacted communities to respond to the short-term and long-term effects of mass layoffs is hampered by a lack of information about and insufficient expertise and resources to access existing Federal programs. In addition to trade adjustment assistance for workers and firms, Federal programs that may benefit trade-impacted communities exist in a number of Federal agencies, including the Department of Commerce's Economic Development Administration, the Department of Housing and Urban Development, the Department of Agriculture, and the Treasury Department's Community Adjustment and Investment Program, among others. Many States also have relevant programs. "Some officials said that, without a central source of information on available economic adjustment programs, they are not always aware of those for which their communities might qualify." *Id.* at 31. In addition, officials "cited the lack of financial resources to meet the federal grant matching requirements," "described the grant application process as time-consuming, technical, and expensive," and "lacked the personnel and expertise necessary to secure federal grants." *Id.*

Similar concerns were raised by Mr. Robert Rhodes, Director of Customized Training for Eastern New Mexico University, in his testimony before the Subcommittee on International Trade of the Committee on Finance on July 20, 2001. Describing the effects on the community of a large trade-related layoff in Roswell, New Mexico, Mr. Rhodes testified as follows:

The service and information provided at local, state, and federal levels lacked coordination, and many times conflicted. There was a delay in making available appropriate resources to address all the problems arising from the lay-off. \* \* \* In their efforts to help, many agencies provided duplicate or ineffective services.

July 20 Hearing Tr. at 49. Mr. Rhodes also noted that:

The failure to approach the social, economic, and community development and the training in a holistic manner created diverse and disengaged results. We had a lot of activities going on, but many times they were not related or interfaced with the other problems, the other actions.

July 20 Hearing Tr. at 48-49.

In some cases, displaced worker retraining programs prove to be of limited value, because communities do not have, and do not have



the resources to attract, the kinds of employment for which workers are being trained. As Cindy Arnold, Executive Director of El Puente Community Development Corporation in El Paso, Texas, testified to the Subcommittee on International Trade, “[t]here is an assumption that there will be training programs there that connect people to jobs.” July 20 Hearing Tr. at 43. In reality, however, some workers are sent to training programs that may not significantly improve their reemployment prospects, because the community has no appropriate jobs to offer. *Id.* at 43–44, 57–58.

Most importantly, the total amount of resources devoted by the Federal Government to community economic adjustment is extremely modest, and the vast majority of what is offered is not targeted specifically at the needs of trade-impacted communities. According to the GAO, the six severely trade-impacted communities covered by its study received a total of \$59.5 million in Federal economic adjustment funding between fiscal year 1995 and 2001, the vast majority of which went to El Paso, Texas. *Id.* at 27. “Even when these communities received funds, the funds were narrowly targeted and not necessarily designed to address long-term human capital and infrastructure challenges.” *Id.* at 4. For example, Mr. Rhodes noted that the Levi Strauss plant closing in Roswell resulted in a 70 percent increase in enrollment in the University’s adult literacy program and doubled its customized training enrollment. With no funding available for additional faculty, facilities, and equipment, this put an enormous burden on the local educational system—a problem existing economic adjustment programs are not designed to address. Tr. at 47. Overall, “[l]ocal officials believe that the scope of programs targeted at trade-impacted areas is too limited to make a difference in their communities.” GAO–01–838 at 31.

By contrast, the Department of Defense has a strong track record of successfully providing economic adjustment assistance to communities affected by military base closures. The Federal Government’s policy with respect to base closures starts from the premise that the Government’s decision to close a base has economic consequences for the surrounding community and that it is the Government’s responsibility to help that community make a successful economic adjustment. Indeed, the Defense Department’s Office of Economic Adjustment operates on the principle that “the primary responses to a closure must be community-based.” Department of Defense, Office of Economic Adjustment, *Community Guide to Base Reuse* (July 1995). Through the Office of Economic Adjustment, each affected community is assigned a Project Manager, who serves as a single point of contact for all Federal assistance. Through the Office of Economic Adjustment, affected communities can access assistance for displaced workers, impacted housing markets, and affected school districts, as well as technical assistance for converting former base facilities and property to other public or private uses. The Project Manager serves as a facilitator, helping stakeholders in the community to work cooperatively to develop a single strategic plan for community economic adjustment, to access available Federal and local resources, and to carry out the plan. This program has been a documented success in communities facing military base closures.

As in the case of base closures, it is an affirmative Government policy decision—in this case, a decision to liberalize trade—which creates the need for economic adjustment in communities that experience mass layoffs due to import competition or shifts in production. The purpose of this Title is to create a trade adjustment assistance program for communities that is modeled on the successful operation of the Defense Department’s Office of Economic Adjustment—a program that will coordinate Federal services, assure rapid response to community needs, and assist communities in developing and implementing strategic plans to achieve economic adjustment and diversification.

*Section 302. Trade adjustment assistance for communities*

Section 302 amends Chapter 4 of title II of the Trade Act of 1974 to insert the following new sections:

*Section 271. Definitions*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 271 provides definitions related to trade adjustment assistance for communities.

*Section 272. Office of Community Trade Adjustment*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 272 establishes the Office of Community Trade Adjustment in the Economic Development Administration of the Department of Commerce to lead and coordinate a comprehensive program to address economic dislocation in eligible communities, create a one-stop clearinghouse for States and communities to access information on economic development, coordinate a Federal rapid response to mass layoffs in affected communities, provide technical assistance to eligible communities in preparation of a strategic plan, administer the grant program established under this Act, and establish an inter-agency trade adjustment assistance working group to examine other options for addressing trade impacts on communities.

REASONS FOR CHANGE

The experience of the Department of Defense’s Office of Economic Adjustment demonstrates that creating a single office to coordinate Federal services, provide rapid response services to affected communities, and serve as a central point of contact throughout the adjustment process results in a more effective adjustment process.

The Office of Community Trade Adjustment is intended to address two criticisms of existing community economic adjustment programs: the difficulties faced by trade-impacted communities in identifying and accessing available Federal resources, and the tendency of existing programs to provide assistance on a piecemeal

basis, rather than first developing a single strategic vision aimed at addressing the long-term economic development needs of each affected community. The primary responsibilities of the Office of Community Trade Adjustment will be two-fold. First, it is charged with improving interagency coordination and enhancing the provision of rapid response services to trade-impacted communities. Specifically, the Office will be responsible for setting up a system for identifying eligible communities, as defined in section 273, notifying those communities of the range of Federal assistance for which they might be eligible, and assisting those communities in accessing those programs in a timely and efficient manner. Second, the Office is responsible for assisting each eligible community to create a broad, coherent, and consensus-based strategy for responding to economic dislocations caused by import competition or production relocations and to implement that strategy.

*Section 273. Notification and certification as an eligible community*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 273 establishes eligibility requirements for communities to receive trade adjustment assistance. The Secretary of Labor is required to notify the Governor of a State and the Director of the Office of Community Trade Adjustment within 15 days after making a determination that a group of workers is eligible for trade adjustment assistance. The Director must then determine, within 30 days, whether a community is eligible for assistance under this chapter. To be eligible for the Trade Adjustment Assistance for Communities program, a community must have a minimum number of workers certified eligible to apply for trade adjustment assistance within a 36-month period (500 in an urban community and 300 in a rural community) or an unemployment rate 1 percent greater than the national unemployment rate for the most recent 12-month period for which data are available.

REASONS FOR CHANGE

The eligibility criteria in this section are taken from the Community Adjustment and Investment Program (CAIP), which is administered by the Department of the Treasury. CAIP was established as a result of the North American Free Trade Agreement Implementation Act of 1993 to assist border communities adversely affected by trade with Mexico or Canada. However, the TAA for communities program eliminates the artificial discrimination created by CAIP, which provides benefits for NAFTA-related impacts rather than all trade-related economic distress.

Under current law, workers, firms, and communities which experience mass layoffs due to import competition or plant relocation must seek, identify, and apply for individual Federal programs which may provide relevant benefits. There is no mechanism under current law for distinguishing communities that face economic dislocations due to trade from communities that may face economic dislocation for other reasons. The notification provision in section

273 ensures that communities which experience mass layoffs due to import competition or plant relocations can be readily identified and provided with rapid response services to assist the community in accessing all relevant Federal programs, with the goal of making timely information more widely and uniformly available. Under this section, the Office of Community Trade Adjustment will automatically identify and notify eligible trade-impacted communities, which will then have immediate access to a clearinghouse of information on available trade adjustment and economic development assistance programs.

*Section 274. Community Economic Development Coordinating Committee*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 274 provides that, in order for an eligible community to receive benefits under this chapter, it must create a Community Economic Development Coordinating Committee, and the Director of the Office of Community Trade Adjustment must certify that each such committee includes representatives of those groups significantly affected by the economic dislocation in that community. The Community Economic Development Coordinating Committee is charged with ascertaining the severity of the economic dislocation in the community; assessing the capacity of the community to respond to the required economic adjustment and the needs of the community as it undertakes economic adjustment; facilitating a dialogue between concerned interests in the community; overseeing the development of a strategic plan for community economic development; creating an executive council of members to promote the strategic plan within the community and ensure coordination and cooperation among all stakeholders; and applying for any grant, loan, or loan guarantee available under Federal law to develop or implement the strategic plan and being an eligible recipient for funding for economic adjustment for that community.

REASONS FOR CHANGE

As noted by the GAO, one of the criticisms of the current approach to community trade adjustment is that a wide variety of Federal (as well as State and local) programs provide trade adjustment and economic development benefits in a piecemeal fashion. The combination of a lack of interagency coordination at the Federal level and lack of local coordination within the community results in a piecemeal delivery of benefits. The requirement that an eligible community form a Community Economic Development Coordinating Committee is intended to require local coordination of economic development efforts and to encourage the community to engage in a strategic planning process rather than simply applying for Federal support for individual projects. The Committee believes that setting in motion a process to involve all local stakeholders in a strategic planning process will result in a more efficient and synergistic use of new and existing trade and economic development program resources.

*Section 275. Community economic adjustment advisors*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 275 provides that the Director of the Office of Community Trade Adjustment shall assign a community economic adjustment advisor to each eligible community. The community economic adjustment advisor is responsible for providing technical assistance to the eligible community, including assisting in the development and implementation of a strategic plan and applying for any grant available under this or any other Federal law to develop or implement that plan; coordinating the response of all Federal agencies offering assistance to the eligible community; serving as an ex officio member of the Community Economic Development Coordinating Committee; acting as liaison between the committee and all other Federal agencies that offer assistance to eligible communities; reporting regularly to the Director of the Office of Community Trade Adjustment regarding the progress of development activities in the community; and performing other duties directed by the Secretary of Commerce or the Director of the Office of Community Trade Adjustment.

## REASONS FOR CHANGE

The community economic adjustment advisor is modeled on the project manager created in the Office of Economic Adjustment in the Department of Defense. The community economic adjustment advisor is responsible for assuring interagency cooperation in the provision of trade adjustment and economic adjustment services to eligible communities, and acts as a technical resource, bringing perspective, experience, and expertise to a community as the community plots a course for economic recovery. Access to the community economic advisor will allow the community to ascertain what has worked elsewhere, what has not worked elsewhere, and whether there are best practices that can be transferred to the efforts being undertaken by the community. The advisor serves as the contact point through which the eligible community can receive information about and make application for Federal benefits and provides technical advice to the community on organizing a Community Economic Development Coordinating Committee, preparing a strategic plan, and implementing the strategic plan.

*Section 276. Strategic plans*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 276 provides that an eligible community may, in cooperation with the community economic adjustment advisor, develop a strategic plan for community economic adjustment and diversification. The strategic plan must contain certain elements, including a description and justification of the capacity for economic

adjustment; a description of, and a plan to accomplish, the projects to be undertaken by the eligible community; a description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community; a description of any alternative development plans that were considered and why those plans were rejected; a description of any additional steps the eligible community will take to achieve economic adjustment and diversification; a description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community; a description of the occupational and workforce conditions in the eligible community; a description of how the plan will adapt to changing markets, business cycles, and other variables; and a graduation strategy through which the eligible community will terminate the need for Federal assistance. Upon receipt of an application from a Community Development Coordinating Committee on behalf of an eligible community, the Director of the Office of Community Trade Adjustment shall, after review and approval of the application, award a grant of up to \$50,000 to that community to be used to develop the strategic plan. No community may receive more than one such grant in a 5-year period. The strategic plan must then be submitted to the Director for evaluation and approval.

#### REASONS FOR CHANGE

As reported by the GAO, trade-impacted communities do not always recognize the need for or know how to undertake long-term strategic planning while they are scrambling to assemble resources to meet the immediate needs of those affected by mass layoffs or large plant closures. GAO-01-838 at 32. “These communities face long-term challenges in improving job skills and human capital of dislocated workers and developing physical infrastructure needed to attract new businesses.” *Id.* at 32. They must decide “whether to rebuild their prior economic base or retool it to compete in a changing national and global economy.” *Id.* at 4. The experience of the Department of Defense with assisting communities facing military base closures demonstrates that an approach which creates incentives for local stakeholders to work cooperatively and supports that effort with technical assistance can help communities to focus more quickly and more effectively on how best to utilize available economic development resources to rebuild and diversify the local economy. The creation of a strategic plan forces the community to assess critically its strengths and weaknesses as it determines how best to respond to the economic crisis. It will also provide greater assurance that a grant application will have competitive merit and will ultimately result in the outcome intended by the community.

#### *Section 277. Grants for economic development*

#### PRESENT LAW

No provision.

#### EXPLANATION OF PROVISION

New section 277 provides that the Director of the Office of Community Trade Adjustment, upon receipt of an application from the Community Economic Development Coordinating Committee on be-

half of an eligible community, may award a grant to that community to carry out any project or program included in the strategic plan approved by the Director that will be located in, or will create or preserve high-wage jobs in, that eligible community and implement the strategy of that eligible community to create high-wage jobs in sectors that are expected to expand.

#### REASONS FOR CHANGE

Only one existing Federal program makes available grants, loans, and loan guarantees that are uniquely directed to the needs of trade-impacted communities. That program, the Community Adjustment and Investment Program (CAIP), was established as a result of the North American Free Trade Agreement Implementation Act of 1993 and is administered by an interagency committee chaired by the Department of the Treasury. Rather than providing funding directly to eligible communities, however, CAIP offers access to competitively awarded grants or enhanced access to credit. To date, the program has provided mainly loan guarantees to local businesses. Moreover, benefits under the CAIP program are limited to communities impacted by trade with Canada or Mexico. The Committee believes that there is no sound policy justification for limiting assistance only to communities adversely affected by trade and investment with Canada and Mexico rather than trade and investment with any country.

The Committee also believes that there is a need for additional resources to be directed to the particular economic development needs of trade-impacted communities. No existing program, aside from CAIP, makes funds available solely to assist communities in responding to the unique challenges of import competition and plant relocations. By contrast, the Office of Community Trade Adjustment will for the first time combine both dedicated program resources and technical expertise in community trade adjustment. Although the program has been located in the Economic Development Administration, the Committee emphasizes that there should be a distinct and dedicated allocation of personnel and resources to trade-impacted communities. Funding for existing economic adjustment efforts and trade-related adjustment efforts within EDA should not be commingled.

#### *Section 278. Authorization of appropriations*

##### PRESENT LAW

No provision.

##### EXPLANATION OF PROVISION

New section 278 authorizes to be appropriated to the Department of Commerce such sums as may be necessary to carry out the purposes of this chapter for fiscal years 2002 through 2006.

#### *Section 279. General provisions*

##### PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 279 requires the Director of the Office of Community Trade Adjustment to report within 6 months to the Senate Finance Committee and the House Ways and Means Committee concerning the establishment of the Trade Adjustment Assistance for Communities program. The Secretary of Commerce is authorized to prescribe necessary regulations to carry out the provisions of this chapter. Section 279 also provides that funds appropriated under this chapter shall be used to supplement rather than supplant other Federal, State, or local public funds expended to provide economic development assistance for communities.

## REASONS FOR CHANGE

A reporting requirement is necessary to assure complete and timely implementation of this program by the Department of Commerce. The section also makes clear that communities eligible for assistance under this chapter should not be denied other Federal, State, or local economic development assistance to which they may be entitled as a result of their participation in the Trade Adjustment Assistance for Communities program.

## TITLE IV.—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

*Section 401. Trade adjustment assistance for farmers*

Section 401 amends title II of the Trade Act of 1974 to add a new chapter (chapter 6) containing the following sections:

*Sec. 291. Definitions*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 291 provides definitions related to trade adjustment assistance for farmers.

*Sec. 292. Petitions; group eligibility*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 292 creates a trade adjustment assistance program for farmers and ranchers in the Department of Agriculture. Under this section, a group of agricultural commodity producers may petition the Secretary of Agriculture for trade adjustment assistance. The Secretary must certify the group as eligible for trade adjustment assistance for farmers if it is determined that the national average price in the most recent marketing year for the commodity produced by the group is less than 80 percent of the national average price in the preceding 5 marketing years and that increases in imports of that commodity contributed importantly to the decline



in price. The section sets out a modified formula for establishing eligibility in subsequent years.

#### REASONS FOR CHANGE

The Committee recognizes that the dislocations that can be suffered by farmers and ranchers when imports surge as a result of the liberalization of agricultural trade are as economically devastating as those experienced by manufacturing workers who lose their jobs when their plant relocates abroad. Yet, when rising imports result in a collapse of commodity prices, individual farmers and ranchers do not become unemployed in the same way as other workers and therefore cannot take advantage of the TAA program.

At the July 20, 2001 hearing of the Subcommittee on International Trade of the Committee on Finance, Mr. Robert Carlson, President of the North Dakota Farmers Union, testified that:

When agricultural trade agreements fail to provide for fair competition or allow adjustments to offset the impact of import surges, farmers, ranchers, and fishermen are the ones who suffer due to their inability to influence or rapidly adjust to changed market conditions. \* \* \* We believe extending TAA benefits to include agricultural producers is a reasonable, fair, and logical means to provide tools for U.S. agriculture to better cope and adjust to the effects of import competition.

July 20 Hearing Tr. at 52–53. The Committee believes that, like workers and firms, farmers and ranchers should therefore be eligible for short-term income support and for training and technical assistance to help them adjust to import competition. The Committee intends that the requirement that a petition be filed on behalf of a group of producers be applied in a manner similar to the practice of the Secretary of Labor under the TAA for workers program.

#### *Sec. 293. Determinations by Secretary of Agriculture*

##### PRESENT LAW

No provision.

##### EXPLANATION OF PROVISION

New section 293 provides that the Secretary of Agriculture must determine whether a petitioning group meets the requirements of section 292 within 60 days after a petition is filed and publish notice of her determination in the Federal Register. Section 293 also provides that the Secretary shall terminate a certification whenever she determines that the decline in price for the agricultural commodity covered by a certification is no longer attributable to the conditions described in section 292, and shall publish a notice of termination in the Federal Register.

#### REASONS FOR CHANGE

The procedures set forth in section 293 assure that the Secretary of Agriculture will rule promptly on petitions for certification, provide appropriate public notice of decisions to certify and decertify groups of farmers or ranchers, and assure that certifications are

timely terminated when eligibility requirements are no longer satisfied.

*Sec. 294. Study by the Secretary of Agriculture when International Trade Commission begins investigation*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 294 requires the International Trade Commission (ITC) to notify the Secretary of Agriculture when the ITC begins a section 202 (*i.e.*, safeguard) investigation of a particular agricultural commodity, and requires the Secretary of Agriculture to report to the President the extent to which the adjustment of producers of the affected agricultural commodity may be facilitated through the trade adjustment assistance for farmers program.

REASONS FOR CHANGE

Section 294 is modeled on current section 224 of chapter 2 of Title II of the Trade Act of 1974, as revised by the new section 225. Because the trade adjustment assistance for farmers program is administered by the Department of Agriculture, the report to the President must be prepared by the Secretary of Agriculture, rather than the Secretary of Labor, as required under existing section 224.

*Sec. 295. Benefit information to agricultural commodity producers*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 295 requires the Secretary of Agriculture to provide full information to producers about the benefit allowances, training, and other employment services available under title II of the Trade Act of 1974, as amended, and about the petition and application procedures and appropriate filing dates for such benefits. The Secretary is required to provide written notice to each agricultural producer that the Secretary has reason to believe is covered by a certification made under chapter 6 of title II of the Trade Act of 1974 and to publish notice of the benefits available to certified agricultural commodity producers in newspapers of general circulation in the areas in which such producers reside. The Secretary must also provide information concerning procedures for applying for and receiving all other Federal assistance services that may be available to workers facing economic distress.

REASONS FOR CHANGE

Section 295 requires the Secretary of Agriculture to make outreach efforts in order to assure that eligible agricultural producers are given an opportunity to apply for and receive benefits under this title.

*Sec. 296. Qualifying requirements for agricultural commodity producers*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 296 provides that, in order to receive a trade adjustment allowance under this chapter, an agricultural producer's net farm income (as determined by the Secretary of Agriculture) for the most recent year must be less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this chapter and the producer must: file an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293; submit to the Secretary sufficient information to establish the amount of the agricultural commodity covered by the application that was produced by the producer in the most recent year; certify that the producer has not received cash benefits under any provision of title II of the Trade Act of 1974, as amended, other than chapter 6; and certify that the producer has met with an Extension Service employee or agent to obtain information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity.

Section 296 provides that an affected agricultural commodity producer is entitled to adjustment assistance in an amount equal to one-half the difference between 80 percent of the national average price for the affected agricultural commodity for the preceding 5 marketing years and the national average price in the most recent year, multiplied by the amount of the commodity produced by the producer in the most recent year. In determining the amount of adjustment assistance to which an affected agricultural producer is entitled in subsequent years, the national average price of the commodity is determined by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification. The maximum amount of cash benefits an agricultural producer may receive in any 12-month period may not exceed \$10,000. An agricultural producer entitled to receive a cash benefit under this chapter is not eligible for any other cash benefit under any other trade adjustment assistance program in title II of the Trade Act of 1974, but is entitled to employment services and training benefits under sections 239 and 240 of chapter 2.

REASONS FOR CHANGE

Section 296 sets forth a formula that makes the amount of trade adjustment allowances available to agricultural commodity producers dependent upon the extent to which commodity prices have declined and the amount of the commodity produced. Section 296 makes clear that a producer receiving trade adjustment allowances in the trade adjustment assistance for farmers program is not eligible to receive cash benefits under the trade adjustment assistance for workers program or any other cash benefits available under title II of the Trade Act of 1974. In order to assist agricultural pro-

ducers in adjusting to import competition, such producers are eligible for employment services and training benefits provided under the trade adjustment assistance for workers program. In addition, an agricultural producer may not receive benefits under this section until that producer meets with an Extension Service employee or agent to receive, at no cost to the producer, technical assistance that will assist the producer in adjusting to import competition, including information regarding the feasibility of substituting alternate commodities and technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity.

*Sec. 297. Fraud and recovery of overpayments*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 297 establishes rules governing fraud and establishes procedures for recovery of overpayments.

REASONS FOR CHANGE

New section 297 parallels section 246.

*Sec. 298. Authorization of appropriations*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 298 authorizes appropriations not to exceed \$90 million per year for the trade adjustment assistance for farmers program for fiscal years 2002 through 2006.

REASONS FOR CHANGE

Section 298 authorizes a separate appropriation for the trade adjustment assistance for farmers program in order to assure adequate funding levels for this and other trade adjustment assistance programs under title II of the Trade Act of 1974.

TITLE V.—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

*Section 501. Short title*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

Section 501 provides that this title may be cited as the “Trade Adjustment Assistance for Fishermen Act.”

*Section 502. Trade adjustment assistance for fishermen*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 502 amends title II of the Trade Act of 1974 to add a new chapter (chapter 7) containing the following sections:

*Section 299. Definitions*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 299 provides definitions related to trade adjustment assistance for fishermen.

*Section 299A. Petitions; Group eligibility*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 299A creates a trade adjustment assistance program for fishermen in the Department of Commerce. Under this section, a group of fishermen may petition the Secretary of Commerce for trade adjustment assistance. The Secretary must certify the group as eligible for trade adjustment assistance for fishermen if it is determined that the national average price in the most recent marketing year for the fish produced by the group is less than 80 percent of the national average price in the preceding five marketing years and that increases in imports of that fish contributed importantly to the decline in price. The section sets out a modified formula for establishing eligibility in subsequent years.

## REASONS FOR CHANGE

The Committee recognizes that the dislocations that can be suffered by fishermen when imports surge as a result of the liberalization of agricultural trade are as economically devastating as those experienced by manufacturing workers who lose their jobs when their plant relocates abroad. Yet, when rising imports result in a collapse of commodity prices, individual fishermen do not become unemployed in the same way as other workers and therefore do not qualify for traditional TAA benefits.

At the July 20, 2001, hearing of the Subcommittee on International Trade of the Committee on Finance, Mr. Robert Carlson, President of the North Dakota Farmers Union, testified that:

When agricultural trade agreements fail to provide for fair competition or allow adjustments to offset the impact of import surges, farmers, ranchers, and fishermen are the ones who suffer due to their inability to influence or rapidly adjust to changed market conditions. \* \* \* We believe extending TAA benefits to include agricultural producers is

a reasonable, fair, and logical means to provide tools for U.S. agriculture to better cope and adjust to the effects of import competition.

July 20 Hearing Tr. at 52–53. The Committee believes that, like workers, farmers, and firms, fishermen should therefore be eligible for short-term income support and for training and technical assistance to help them adjust to import competition. The Committee intends that the requirement that a petition be filed on behalf of a group of fishermen be applied in a manner similar to the practice of the Secretary of Labor under the TAA for workers program.

*Sec. 299B. Determinations by Secretary of Commerce*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 299B provides that the Secretary of Commerce must determine whether a petitioning group meets the requirements of section 299A within 60 days after a petition is filed and publish notice of her determination in the Federal Register. Section 299B also provides that the Secretary shall terminate a certification whenever he determines that the decline in price for the fish covered by a certification is no longer attributable to the conditions described in section 299A, and shall publish a notice of termination in the Federal Register.

REASONS FOR CHANGE

The procedures set forth in section 299B assure that the Secretary of Commerce will rule promptly on petitions for certification, provide appropriate public notice of decisions to certify and decertify groups of fishermen, and assure that certifications are timely terminated when eligibility requirements are no longer satisfied.

*Sec. 299C. Study by the Secretary of Commerce when International Trade Commission begins investigation*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 299C requires the International Trade Commission (ITC) to notify the Secretary of Commerce when the ITC begins a section 202 (i.e., safeguard) investigation of a particular fish, and requires the Secretary of Commerce to report to the President the extent to which the adjustment of producers of the affected fish may be facilitated through the trade adjustment assistance for fishermen program.

REASONS FOR CHANGE

Section 299C is modeled on current section 224 of chapter 2 of title II of the Trade Act of 1974, as revised by the new section 225. Because the trade adjustment assistance for fishermen program is administered by the Department of Commerce, the report to the

President must be prepared by the Secretary of Commerce, rather than the Secretary of Labor, as required under existing section 224.

*Sec. 299D. Benefit information to producers*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 299D requires the Secretary of Commerce to provide full information to producers about the benefit allowances, training, and other employment services available under title II of the Trade Act of 1974, as amended, and about the petition and application procedures and appropriate filing dates for such benefits. The Secretary is required to provide written notice to each fisherman that the Secretary has reason to believe is covered by a certification made under chapter 7 of title II of the Trade Act of 1974 and to publish notice of the benefits available to certified fishermen in newspapers of general circulation in the areas in which such fishermen reside. The Secretary must also provide information concerning procedures for applying for and receiving all other Federal assistance services that may be available to workers facing economic distress.

REASONS FOR CHANGE

Section 299D requires the Secretary of Commerce to make outreach efforts in order to assure that eligible fishermen are given an opportunity to apply for and receive benefits under this title.

*Sec. 299E. Qualifying requirements for agricultural commodity producers*

PRESENT LAW

No provision.

EXPLANATION OF PROVISION

New section 299E provides that, in order to receive a trade adjustment allowance under this chapter, a producer's net fishing or processing income (as determined by the Secretary of Commerce) for the most recent year must be less than the producer's net fishing or processing income for the latest year in which no adjustment assistance was received by the producer under this chapter and the producer must: file an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 299A; submit to the Secretary sufficient information to establish the amount of the fish covered by the application that was produced by the producer in the most recent year; certify that the producer has not received cash benefits under any provision of title II of the Trade Act of 1974 other than chapter 7; certify that the producer has met with an employee or agent from a Trade Adjustment Assistance Center to obtain information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected fish; and certify that none of the benefits will be used to purchase, lease, or finance any new fishing vessel, add

capacity to any fishery, or otherwise add to the overcapitalization of any fishery.

Section 299E provides that an affected fish producer is entitled to adjustment assistance in an amount equal to one-half the difference between 80 percent of the national average price for the affected fish for the preceding 5 marketing years and the national average price in the most recent year, multiplied by the amount of the fish produced by the producer in the most recent year. In determining the amount of adjustment assistance to which an affected fish producer is entitled in subsequent years, the national average price of the commodity is determined by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification. In addition, a fish producer is eligible for benefits in subsequent years only if the Secretary or his designee determines that sufficient progress has been made implementing the adjustment plans developed under section 299E(a)(4). The maximum amount of cash benefits a fish producer may receive in any 12-month period may not exceed \$10,000. A fish producer entitled to receive a cash benefit under this chapter is not eligible for any other cash benefit under any other trade adjustment assistance program in title II of the Trade Act of 1974, but is entitled to employment services and training benefits under sections 239 and 240 of chapter 2.

#### REASONS FOR CHANGE

Section 299E sets forth a formula that makes the amount of trade adjustment allowances available to fish producers dependent upon the extent to which fish prices have declined and the amount of the fish produced. Section 299E makes clear that a producer receiving trade adjustment allowances in the trade adjustment assistance for fishermen program is not eligible to receive cash benefits under the trade adjustment assistance for workers program or any other cash benefits available under title II of the Trade Act of 1974. In order to assist fish producers in adjusting to import competition, such producers are eligible for employment services and training benefits provided under the trade adjustment assistance for workers program. In addition, a fish producer may not receive benefits under this section until that producer meets with an employee or agent of a Trade Adjustment Assistance Center to receive, at no cost, technical assistance that will assist the producer in adjusting to import competition, including information regarding the feasibility of substituting alternate fish and technical assistance that will improve the competitiveness of the production and marketing of the adversely affected fish.

#### *Sec. 299F. Fraud and recovery of overpayments*

##### PRESENT LAW

No provision.

##### EXPLANATION OF PROVISION

New section 299F establishes rules governing fraud and establishes procedures for recovery of overpayments.



## REASONS FOR CHANGE

New section 299F parallels section 246.

*Sec. 299G. Authorization of appropriations*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 299G authorizes appropriations not to exceed \$10 million per year for the trade adjustment assistance for fishermen program for fiscal years 2002 through 2006.

## REASONS FOR CHANGE

Section 299G authorizes a separate appropriation for the trade adjustment assistance for fishermen program in order to assure adequate funding levels for this and other trade adjustment assistance programs under title II of the Trade Act of 1974.

**TITLE VI.—HEALTH INSURANCE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE**

*Section 601. Premium assistance for COBRA continuing coverage for individuals and their families*

## PRESENT LAW

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires an employer with 20 or more employees to offer the option of continued health insurance coverage at group rates to qualified employees and their families who are faced with loss of coverage due to certain events (e.g., termination, reduction of hours, retirement, death of an insured spouse). The coverage generally lasts for 18 months, but can last up to 36 months, depending on the nature of the event. The employer is not required to pay for this coverage; rather, the beneficiary can be required to pay up to 102 percent of the premium. Employers who fail to provide the continued health insurance option are subject to tax and other penalties.

COBRA applies to employers who purchase group health plans for their employees, as well as those who self-insure. An employer must comply with COBRA even if the employer does not contribute to the health plan, as long as the employer maintains such a plan.

## EXPLANATION OF PROVISION

The proposal would provide a 75 percent premium subsidy for up to 12 months for individuals eligible for trade adjustment assistance who are eligible for COBRA coverage.

The Secretary of Treasury, in consultation with the Secretary of Labor, would administer the program through appropriate direct payment arrangements with group health plans, employers, and/or State unemployment insurance offices. States can choose to administer this program provided that they notify the Secretary and develop a plan for making the subsidies available by January 1, 2002.

States would also be given the flexibility to provide “wrap-around” premium assistance for low-income workers who are COBRA eligible but not able to pay their share of the COBRA premium.

#### REASONS FOR CHANGE

The Committee notes that the high cost of COBRA coverage makes it unaffordable for many families. Employees generally pay 102 percent of the premium, at an average annual cost of \$2,650 for an individual and \$7,053 for a family. It is extremely difficult for workers who lose their jobs to pay these high COBRA premiums. As the U.S. Trade Deficit Review Commission noted in 2000, “[w]orkers receiving \$150 to \$200 a week of unemployment, with no other income, trying to support a family, and attend school to obtain suitable future employment, can’t afford that.” U.S. Trade Deficit Review Commission, *The U.S. Trade Deficit: Causes, Consequences and Recommendations for Action* (Nov. 2000) at 172. Not surprisingly, only about 20 percent of COBRA-eligible workers take up this option. Congressional Research Service, *Health Insurance Continuation Coverage Under COBRA* (Jan. 7, 2002) at 7, citing Kaiser Family Foundation and Health Research and Educational Trust, *Employer Health Benefits 1999 Annual Survey* (1999). Accordingly, the U.S. Trade Deficit Review Commission found that “[t]here is a need to find ways to fill the gap in health insurance coverage between the time when a worker loses one job and starts another.” *Id.* at 172. The COBRA premium subsidy established in this section assists workers both by reducing COBRA premiums for which the workers are responsible to a more affordable amount and by eliminating the cash flow problem that would exist if workers were required to pay the full premium amount and await later reimbursement.

#### *Section 602. State option to provide temporary Medicaid coverage for certain uninsured individuals*

##### PRESENT LAW

Medicaid is a means-tested health care entitlement program financed by both States and the Federal Government. The program was created to assist low-income Americans, but coverage is dependent upon several other criteria in addition to income. Eligibility is generally limited to those persons falling into particular “categories,” such as low-income children, pregnant women, the elderly, people with disabilities and parents meeting specific income thresholds.

By law, the Federal Government matches at least 50 percent of the cost of Medicaid in each State, and can match as much as 83 percent, depending on a State’s per capita income. On average, the Federal Government pays 57 percent of the cost of Medicaid in each State, with relatively poor States receiving a higher matching rate than relatively wealthy States.

States have considerable flexibility in structuring their programs within broad Federal guidelines governing eligibility, provider payment levels and benefits. As a result, Medicaid programs vary widely from State to State.

## EXPLANATION OF PROVISION

Section 602 creates a temporary State option to provide Medicaid coverage to workers receiving trade adjustment assistance who are not eligible for COBRA. Such workers include those who worked in small businesses, or in firms that went bankrupt or dropped health coverage for their remaining employees.

States choosing this option would receive the enhanced CHIP (Children's Health Insurance Program) matching rate and are permitted to use the same eligibility criteria allowed through the Workers Incentive Improvement Act of 2000 (i.e., full subsidies up to 250 percent of poverty and sliding scale assistance up to 450 percent of poverty).

## REASONS FOR CHANGE

Most American workers eligible for trade adjustment assistance are not eligible for COBRA coverage. A State Medicaid option for such workers will provide affordable coverage for displaced workers who otherwise would be uninsured during their period of unemployment, helping enable those workers to complete appropriate retraining. Because the proposal builds on a well-established health care program that operates in every State, States will be able to enroll new eligibles immediately and reduce the likelihood that dislocated workers will go without health insurance for a significant period of time. The enhanced matching rate, which averages 70 percent, and the flexibility to set income and resource eligibility standards as they see fit, will further encourage States to utilize this option.

*Section 603. State option to provide temporary coverage under Medicaid for the unsubsidized portion of COBRA continuation premiums*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Under new section 603, a State may elect to subsidize through its Medicaid program, for up to 12 months, the remainder of the COBRA premium for low-income workers eligible for the 75 percent COBRA premium subsidy.

## REASONS FOR CHANGE

Enabling States to subsidize the remainder of the COBRA premium for low-income workers will help more workers in the trade adjustment assistance program to maintain their health insurance while workers complete retraining and find new employment.

*Section 604. Definitions*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 604 defines terms used in this title, including COBRA continuation coverage and eligible individual.

## TITLE VII.—CONFORMING AND EFFECTIVE DATE

*Section 701. Conforming amendments*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 701 makes conforming amendments to the Trade Act of 1974, including revisions to the termination provisions, effective dates, and table of contents, conforming amendments to the Internal Revenue Code, and conforming amendments to Title 28 of the U.S. Code, concerning judicial review.

## TITLE VIII.—SAVINGS PROVISIONS AND EFFECTIVE DATE

*Section 801. Savings provisions*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 801 provides that the provisions of this Act shall not affect any petition for certification for benefits under chapter 2 of title II of the Trade Act of 1974 that is in effect on September 30, 2001, nor shall any provision of this Act be deemed to prohibit the discontinuance or modification of any proceeding to the extent that the proceeding could have been discontinued or modified if this Act had not been enacted. Section 801 also provides that the provisions of this Act shall not affect any suit commenced before October 1, 2001, and that no suit, action, or other proceeding commenced by or against the Federal Government, or by any individual in the official capacity of that individual as an officer of the Federal Government, shall abate by reason of enactment of this Act.

## REASONS FOR CHANGE

Section 801 preserves rights under existing certifications and suits.

*Section 802. Effective date*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 802 provides that, except as otherwise provided, the amendments made by this Act shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this Act, petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 before the date that is 90 days after

the date of enactment of this Act that are pending on such date, and certifications for assistance under chapter 4 of title II of the Trade Act of 1974 issued on or after the date which is 90 days after the date of enactment of this Act. Any worker certified as eligible before the effective date of this Act shall continue to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the effective date of the Act.

#### REASONS FOR CHANGE

Section 802 provides that the provisions of this Act take effect with respect to petitions filed after or pending on the date which is 90 days after enactment of the Act. The Committee believes that the amendments to chapters 2 and 3 of title II of the Trade Act of 1974 made by this Act are of sufficient complexity to preclude making them effective upon enactment, but not so complex as to require more than 3 months to implement.

#### TITLE IX.—CUSTOMS REAUTHORIZATION

During its consideration of the present bill, the Committee accepted, by unanimous consent without objection, an amendment offered by Senator Grassley as modified by a second degree amendment offered by Senator Kyl. The Grassley/Kyl amendment, contained in title IX, authorizes appropriations for fiscal years 2002 and 2003 for the U.S. Customs Service, including specific authorization for anti-terrorism, drug interdiction, and the prevention of child pornography. It provides the Customs Service with authority to search outbound mail so long as privacy and fourth amendment protections are observed; requires the Treasury Department to build a system through the regulatory process to handle the collection of advanced information for inbound cargo and inbound and outbound passengers from carriers for the purpose of targeting both terrorist activity and smuggling; changes Customs' audit process; permits emergency adjustment to Customs offices and staff; raises the duty exemption on U.S. residents returning from abroad from \$400 to \$800; authorizes several studies and reports on Customs' operations; provides additional funding to textile transshipment efforts and assistance to African countries for implementation of the African Growth and Opportunities Act; dedicates resources to reestablish the New York Customs office formerly at the World Trade Center, which was destroyed in the terrorist attack of September 11; provides more resources to the northern border; and authorizes funding for the Customs Automated Commercial Environment. Title IX would also authorize appropriations for the Office of the United States Trade Representative and the International Trade Commission. In addition, title IX expresses the sense of the Senate that customs user fees provided for in section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) may be used only for the operations and programs of the United States Customs Service.

## TITLE X.—MISCELLANEOUS PROVISIONS

*Section 1001. Country of origin labeling of fish and shellfish products*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

New section 1001 requires retailers of certain fish, fresh fruit, and vegetables to inform consumers at the final point of sale of the country of origin of the product offered for sale. The provision details how such products may be labeled or otherwise identified in order to designate its country of origin. Further, it permits a retailer to designate such products as having United States origin if the commodity is harvested and processed in the United States, or, in the case of farm-raised fish and shellfish, was hatched, raised, harvested and processed in the United States.

## REASONS FOR CHANGE

During its consideration of the present bill, the Committee accepted by recorded vote an amendment offered by Senator Murkowski to require country of origin labeling of certain fish, fresh fruits, and vegetables. The amendment is intended to assist consumers in making informed choices in the selection and purchase of such products.

*Section 1002. Sugar policy*

## PRESENT LAW

No provision.

## EXPLANATION OF PROVISION

During its consideration of the present bill, the Committee accepted by voice vote an amendment offered by Senator Breaux and co-sponsored by Senator Thomas to establish a sugar anti-circumvention program. The amendment requires the Secretary of Agriculture to identify imports of articles that are circumventing tariff-rate quotas on sugars, syrups, or sugar-containing products imposed under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule and report to the President articles found to be circumventing such tariff-rate quotas. Upon receiving the Secretary's report, the President shall, by proclamation, include any identified article in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

## REASONS FOR CHANGE

The provision is intended to stop future sugar circumvention attempts which in the recent past have disrupted the United States market for sweeteners; injured domestic growers, refiners, and processors of sugar; and adversely affected legitimate exporters of sugar.

#### IV. CONGRESSIONAL ACTION

On July 19, 2001, Senator Bingaman (for himself and others) introduced S. 1209, a bill to consolidate and improve the trade adjustment assistance programs, to provide community-based economic development assistance for trade-affected communities, and for other purposes. The bill was read twice and referred to the Committee on Finance.

On July 19, 2001, the Committee on Finance held a hearing on reauthorization and reform of the trade adjustment assistance programs. On July 20, 2001, the Subcommittee on International Trade of the Committee on Finance held a second hearing on the same topic.

On December 4, 2001, the Committee on Finance held a markup session to consider S. 1209. The Chairman offered an amendment in the nature of a substitute to S. 1209. The substance of the amendment in the nature of a substitute was the text of S. 1209 with certain modifications. Several amendments to the amendment in the nature of a substitute were accepted by the Committee. The bill as amended was ordered favorably reported on the basis of a voice vote, with a quorum present, on December 4, 2001.

#### V. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of S. 1209.

##### A. MOTION TO REPORT THE BILL

S. 1209 as amended by the Chairman's amendment in the nature of a substitute and as further amended was ordered favorably reported by voice vote with a quorum present on December 4, 2001.

##### B. VOTES ON AMENDMENTS

(1) An amendment by Senator Murkowski to provide for country of origin labeling of fish and shellfish products passed by a vote of 14 ayes and 5 nays.

Ayes: Baucus, Rockefeller, Daschle (proxy), Breaux, Conrad, Graham (proxy), Jeffords (proxy), Bingaman, Kerry (proxy), Grassley, Hatch, Murkowski, Snowe, Thomas.

Nays: Lincoln, Nickles (proxy), Gramm, Thompson (proxy), Kyl.

(2) An amendment by Senator Breaux to maintain the integrity of the tariff-rate quotas on sugars, syrups, and sugar-containing products by stopping circumvention was adopted by voice vote.

(3) An amendment by Senator Grassley to express the sense of the Senate that Customs user fees shall only be used for Customs Service operations and programs, with a second-degree amendment by Senator Kyl authorizing appropriations for fiscal years 2002 and 2003 for the U.S. Customs Service, Office of the U.S. Trade Representative, and the U.S. International Trade Commission, was accepted by the Chairman by unanimous consent, without objection.

## VI. BUDGETARY IMPACT OF THE BILL

### A. COMMITTEE ESTIMATES

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the bill: The Committee agrees with the estimate prepared by CBO which is included below, with one exception. Although CBO estimates that the wage insurance program would cost about \$85 million annually, the Committee believes that the net cost of the wage insurance program will be zero, and may, in fact, reduce overall outlays for the TAA for workers program. The Committee bases this conclusion on the bill's requirement that a worker enter the wage insurance program after TAA certification, but before receiving any trade adjustment allowances. Thus, in order to receive the wage subsidy, the worker must forego his right to trade adjustment allowances. The Committee estimates that the maximum wage subsidy of \$10,000 per worker over 2 years will on average be less than the average cost of providing trade adjustment allowances to the same worker under this bill.

### B. BUDGET AUTHORITY AND TAX EXPENDITURES

#### 1. BUDGET AUTHORITY

In accordance with section 308(a)(1) of the Budget Act, the Committee states that the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002 involves increased budget authority in the amount of \$8.8 billion over the period fiscal year 2002 through fiscal year 2011 and increased outlays in the amount of \$8.6 billion over the same period.

#### 2. TAX EXPENDITURES AND REVENUES

In accordance with section 308(a)(2) of the Budget Act, the Committee states that the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002 will result in no change in tax expenditures over the period fiscal years 2002–2011, but will diminish duty revenues by about \$3 million in fiscal year 2002 and \$4 million per year thereafter as a result of the increase in the duty exemption for travelers from abroad from \$400 to \$800.

### C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted the following statement on the budgetary impact of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002:



U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, January 28, 2002.*

Hon. MAX BAUCUS,  
*Chairman, Committee on Finance,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1209, the Trade Adjustment Assistance for Workers, Farmers, Communities, and Firms Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Christina Hawley Sadoti.

Sincerely,

BARRY B. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S.1209—Trade Adjustment Assistance for Workers, Farmers, Communities, and Firms Act of 2001*

Summary: S.1209 would extend the Trade Adjustment Assistance (TAA) programs for workers and for firms through fiscal year 2006. The authorizations for these programs expired at the end of fiscal year 2001, but the Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, 2002, funded these programs for 2002. The bill also would expand the existing TAA program; create a number of new trade-related federal programs designed to benefit farmers, fishermen, and communities; and subsidize health insurance for those who qualify for TAA. This legislation also would increase the personal duty exemption for travelers entering the United States. In addition, S.1209 would authorize appropriations for 2002 and 2003 for the U.S. Customs Service, the Office of the U.S. Trade Representative, and the International Trade Commission.

For fiscal years 2002–2011, CBO estimates that enacting the bill would increase direct spending by about \$12.4 billion and reduce revenues by \$39 million. Because the bill would affect revenues and direct spending, pay-as-you-go procedures would apply. However, the costs of extending TAA are assumed in CBO's estimates of baseline spending. Pay-as-you-go procedures would apply only to the new direct spending above the costs already assumed in baseline. Those net costs above baseline spending—as projected in CBO's May 2001 baseline—would total \$8.6 billion in outlays over the 2002–2011 period. We also estimate that implementing the bill would cost about \$3 billion, subject to appropriation of the necessary funds.

S. 1209 contains three intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). Two of those mandates would impose no costs on state, local, and tribal governments. CBO cannot estimate the costs of a third mandate (regarding the closure of ports of entry), but it is unlikely that any such costs over the next five years would exceed the threshold established in UMRA (\$58 million in 2002, adjusted annually for inflation). Other provisions of the bill would enable states to expand



TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 1209, THE TRADE ADJUSTMENT ASSISTANCE FOR WORKERS, FARMERS, COMMUNITIES, AND FIRMS ACT OF 2001—Continued

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION											
Title II, TAA for Firms:											
Estimated Authorization Level .....	5	16	16	16	16	0	0	0	0	0	
Estimated Outlays .....	2	4	7	14	16	13	10	7	3	0	
Title III, TAA for Communities:											
Estimated Authorization Level .....	5	10	10	10	10	0	0	0	0	0	
Estimated Outlays .....	1	3	5	7	9	8	6	4	2	0	
Title IX, Customs Service and Trade Agency											
Reauthorization:											
Estimated Authorization Level: <sup>3</sup> .....	107	2,825	0	0	0	0	0	0	0	0	
Estimated Outlays .....	46	2,342	401	143	0	0	0	0	0	0	
Total:											
Estimated Authorization Level .....	117	2,851	26	26	26	0	0	0	0	0	
Estimated Outlays .....	49	2,349	413	164	25	21	16	11	5	0	

<sup>1</sup> Although authorization for the TAA program expired at the end of fiscal year 2011, the costs of extending it are assumed in CBO's May 2001 baseline as required under section 257 of the Balanced Budget and Emergency Deficit Control Act. The Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, 2002, appropriates \$416 million for these programs for 2002.

<sup>2</sup> Under section 257 of the Balanced Budget and Emergency Deficit Control Act, the costs of extending programs first enacted after 1997 are to be contained in baseline only at the direction of the budget committees. The Senate Budget Committee has directed that spending for these provisions should be assumed to continue beyond 2006.

<sup>3</sup> An appropriation for these agencies for fiscal year 2002 has been enacted. Most of the additional funding that would be authorized by S. 1209 would be for reestablishment of customs operations in New York City.

### *Basis of estimate*

For this estimate, CBO assumes that S. 1209 will be enacted in the spring of 2002. We estimate that enacting the bill would increase direct spending, relative to CBO's May 2001 baseline projections, by about \$8.6 billion over the 2002–2011 period. Enacting the bill also would reduce revenues by about \$4 million a year. Assuming the appropriation of the necessary funds, we estimate that implementing the bill would cost about \$50 million in 2002, \$2.3 billion in 2003, and about \$3 billion over the 2002–2010 period.

### Direct spending

S. 1209 would extend and expand TAA for workers through 2006, in part by merging the regular TAA program for workers with the TAA program established for workers who lost their jobs due to implementation of the North American Free Trade Agreement (NAFTA). The bill also would create TAA programs for fishermen and farmers, and would help subsidize health insurance for TAA beneficiaries. CBO estimates that these provisions would result in total direct spending of \$12.4 billion over the 2002–2011 period, an increase of \$8.6 billion over spending assumed in CBO's May 2001 baseline.

Trade Adjustment Assistance for Workers—Title I of S. 1209 would reauthorize TAA for workers through fiscal year 2006. This program provides extended unemployment compensation and training benefits for workers who lose their jobs because of increases in imports. In addition, it would expand eligibility for the program to include secondary workers, workers who lose their jobs due to shifts in production, and certain other workers. Secondary workers would include workers laid off from firms that supply companies that experience a trade-related loss of employment. S. 1209 also would increase the maximum number of weeks a beneficiary could collect TAA, and would increase the caps on certain benefits. Fi-

nally, it would create a new program that would provide wage subsidies to certain workers. Together, the changes would cost about \$8.6 billion over the 2002–2011 period. This figure represents an increase of \$4.8 billion over spending assumed in baseline for TAA for workers. Over 50 percent of the increase—about \$2.7 billion is for increased caseload that would result from enacting the bill. Another \$1.3 billion would result from the increases in the average time allowed to draw benefits. The proposal to provide wage insurance to certain workers makes up \$0.6 billion of the increase. The remainder—about \$250 million—would be for increases in administrative costs.

*Expanded Eligibility.*—The bill would merge the regular and NAFTA–TAA programs, creating one TAA program with similar eligibility criteria. Under the proposed provisions, secondary workers and workers who lose their jobs due to shifts in productions (plant relocations) would be eligible. In addition, petitioning workers would no longer need to show that sales of their employer decreased absolutely. Instead, they could petition for coverage under TAA if their layoff was precipitated by increased imports. Finally, the bill includes a special provision for workers involved in the production of taconite pellets. CBO estimates that these changes would nearly double the TAA caseload. In order to provide training benefits for these additional people, the current cap on training (a combined total of \$110 million per year for the regular and NAFTA–TAA programs) would be raised to \$300 million annually. CBO estimates that these increases in caseload would result in additional spending of about \$2.6 billion over the next 10 years.

In the past five years, the Department of Labor (DOL) certified an average of 125,000 workers each year, although there was considerable annual variation. Based on information provided by the Bureau of Labor Statistics, the DOL’s Employment and Training Administration, and a report of the General Accounting Office, CBO estimates that these provisions would increase the number of certified workers by about 100,000 per year. The provision covering secondary workers would make up about three-fourths of the increase in caseload. Covering shifts in production would make up about one-fifth of the increase, with the remainder split among the other eligibility provisions. CBO assumes that roughly 25 percent of certified workers would ultimately draw the extended unemployment and training benefits, which total about \$10,000 per beneficiary under current law.

*Increases in Benefits.*—Title I also would increase the number of weeks that individuals could draw TAA cash benefits. In addition, it would increase the maximum benefits for job search and relocation allowances to \$1,200 and \$1,500, respectively. Under current law, each category is capped at \$800 per beneficiary. The estimated costs of these benefit enhancements total about \$1.2 billion over 10 years.

The bill would allow beneficiaries to collect TAA benefits for an additional 26 weeks. Currently, TAA beneficiaries may draw up to 52 weeks of benefits after their regular unemployment compensation has expired. This bill would permit beneficiaries to collect these cash payments for up to 78 weeks. CBO estimates that this provision would lead to an increase of about 11 weeks in the average duration of benefits, resulting in a cost of about \$1.2 billion

over 10 years. In addition, CBO estimates that provisions of S. 1209 that would subsidize the cost of health insurance for TAA beneficiaries would result in slightly longer stays on TAA. CBO estimates this interaction to cost roughly \$100 million over 10 years. The increase in amounts permitted for job search and relocation allowances is expected to have only a minimal impact on the costs of this bill.

*Wage Insurance Program.*—S. 1209 would require DOL to create a new wage insurance program. Workers over 50 years of age who are certified under the TAA program could be eligible to receive a wage subsidy of up to \$10,000, if they take a lower paying job and meet certain other criteria. Eligible workers who receive less than \$40,000 in their new job would receive up to 50 percent of the difference between their previous job's wage and the new one. Workers with annual salaries between \$40,000 and \$50,000 would receive a subsidy of 25 percent of the difference. CBO estimates this program—when fully phased in—would cost about \$85 million annually. These costs are based on data from the Displaced Worker Supplement to the February 1998 Current Population Survey.

*Administrative Expenses.*—Currently the Department of Labor provides to the states about 15 percent of total training costs for administrative expenses. Although this is not set in law or regulation, CBO assumes this practice will continue. Combined training benefits are capped at \$110 million under current law, this cap would increase to \$300 million under S. 1209. Thus, under this assumption, administrative costs would increase from about \$17 million per year to about \$45 million annually.

*Trade Adjustment Assistance for Farmers.*—Title IV would require the Department of Agriculture to provide funds to eligible farmers when the price of an agricultural commodity is less than 80 percent of the national average price for such commodity for the five marketing years preceding the most recent marketing year, and increases in imports contributed importantly to the decline in price. The bill would provide \$90 million a year for fiscal years 2002 through 2006 to carry out this purpose. For this estimate, CBO assumes that the additional assistance for farmers would not continue beyond 2006. CBO estimates that these provisions would increase direct spending by \$426 million over the 2002–2006 period, and \$450 million over the 2002–2011 period.

*Trade Adjustment Assistance for Fishermen.*—Title V would require the Department of Commerce to provide funds to fishermen when the price of their catches declines a certain amount because of foreign competition. The bill would provide \$10 million a year during the next five years for this purpose. Based on information from the Department of Commerce, CBO estimates that these provisions would increase direct spending by \$27 million over the 2002–2006 period and by \$50 million over the 2002–2011 period.

*Health Insurance Coverage Options.*—Title VI would subsidize private health insurance coverage for certain individuals certified as eligible for adjustment assistance. The bill also would permit states to enroll in Medicaid certain individuals (and members of their families) who are eligible for adjustment assistance but are not eligible for the subsidy of private health insurance. The federal government would reimburse states at the enhanced federal medical assistance percentage (FMAP) that applies to the State Chil-

dren's Health Insurance Program (SCHIP). CBO estimates those provisions would increase federal spending by \$87 million in 2002 and \$3.3 billion over the 2002–2011 period.

*Premium Assistance for COBRA Continuation Coverage.*—The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 permits certain individuals with health insurance obtained through their employer to maintain that insurance coverage for up to 18 months (in some cases, up to 36 months) after leaving their job by paying the full COBRA premium (the employee's share and the employer's share of the regular premium for health insurance plus a 2 percent administrative fee).

S. 1209 would require the Secretary of the Treasury to establish a program to pay 75 percent of the COBRA premium for individuals eligible for COBRA who are certified as eligible for adjustment assistance. The subsidy would be available for up to 12 months of COBRA coverage. The bill would require the Secretary to establish the subsidy program within 90 days of enactment, and would permit implementation before the issuance of final regulations. The bill would authorize the subsidy program through 2006. However, based on instructions from the staff of the Senate Budget Committee, this estimate assumes the program would continue after 2006.<sup>1</sup>

The bill would also permit state Medicaid programs to pay the remaining 25 percent of the COBRA premium for individuals participating in the federally subsidized program whose family income is no higher than 200 percent of the federal poverty level. The federal government would reimburse each state at the enhanced FMAP that applies to SCHIP, which is 70 percent on average. CBO assumes that states with half of the eligible population would offer the additional subsidy for Medicaid coverage.

Under current law, about 25 percent of eligible individuals purchase unsubsidized COBRA continuation coverage. CBO assumes that participation in the subsidized program would rise from that level as eligible individuals become aware that a subsidy is available, and as implementation of the program eliminates the need for participants to pay the full COBRA premium and claim reimbursement.

CBO estimates that about 75 percent of eligible individuals would purchase continuation coverage with a 75 percent subsidy, as would about 95 percent of those offered a 100 percent subsidy.<sup>2</sup> In aggregate, CBO estimates that about 80 percent of eligible individuals would participate in the subsidized COBRA program once it is fully implemented. The estimate assumes that participation in the COBRA subsidy would achieve that level beginning with those who become eligible for COBRA coverage in April 2002.

CBO estimates that about 110,000 people would become eligible for the subsidy of COBRA continuation coverage each year, and that about 90,000 would participate in the COBRA subsidy. The estimate assumes that participants would receive COBRA continuation coverage for an average of six months, with those receiving

<sup>1</sup>The budget committees are responsible for determining whether new programs with direct spending that is estimated to exceed \$50 million in the last year authorized are assumed to expire or to continue in the baseline.

<sup>2</sup>CBO estimates that about 20 percent of participants would receive a 100 percent subsidy of the COBRA premium by combining the federal 75 percent subsidy with the state-administered 25 percent subsidy.

a 100 percent subsidy averaging eight months. Of the 90,000 people getting a COBRA subsidy, CBO estimates that 20,000 would participate in the state-run program through Medicaid and receive the 100 percent COBRA subsidy.

COBRA premiums will average about \$450 a month in 2002. On average, therefore, the 75 percent subsidy would cost about \$340 a month in 2002, while the federal share of the state-administered 25 percent subsidy would cost about \$80 a month. In 2002, CBO estimates that spending for the program offering a 75 percent subsidy would total \$41 million, and the federal share of the state-administered program offering a 25 percent subsidy would total \$3 million. Estimated spending for these subsidies would total \$1 billion over the 2002–2006 period and \$2.6 billion over the 2002–2011 period.

*State option to provide temporary Medicaid coverage for certain uninsured individuals.*—The bill would allow states to provide Medicaid coverage to individuals who are certified as eligible for adjustment assistance, are not eligible for COBRA continuation coverage, and are uninsured. In addition, states would have the option to cover the dependents of those individuals. States could adopt eligibility criteria used in their Medicaid programs or could use less restrictive standards; they could also require certain beneficiaries to pay a limited premium amount.

States would provide up to 12 months of Medicaid coverage; however, benefits would cease if the individual gained health insurance before the end of the 12-month period. States would also have the option of providing up to three months of retroactive benefits.

The federal share of benefits for each state would equal the state's reimbursement rate under SCHIP, which is 70 percent on average. The territories, whose federal Medicaid reimbursement is capped, would receive an increase in their federal cap for the temporary coverage in this bill.

Based on an analysis of insurance status of workers from the Current Population Survey, CBO anticipates that between 20 percent and 25 percent of the individuals who are eligible for adjustment assistance (about 50,000 people in fiscal year 2002) would be eligible if all states took up this option to the fullest extent. Under the assumption that states with two-thirds of the eligible individuals take up the option for people under 200 percent of poverty and that states with one-quarter of eligible individuals extend coverage for individuals with higher incomes, CBO estimates that the number of affected workers eligible for the Medicaid coverage would be about 27,000 a year. After accounting for dependents and people who would otherwise become eligible for Medicaid, the number of new Medicaid eligibles would be about 60,000 a year. About 60 percent of those eligible would be adults; the balance would be children.

CBO assumed that on average 55 percent of those eligible would participate; while we anticipate high participation for the poor and near poor, it is likely to be much lower for those with higher incomes. In estimating the costs of this proposal, we assumed that people would be on the rolls for 11 months on average and that there would be a lag of several months between the loss of employment and enrollment in the Medicaid program. CBO also expects that about half the states taking up this option would choose to

provide retroactive benefits. CBO estimates that the provision would increase enrollment by about 10,000 full-year-equivalent individuals in fiscal year 2002 and 30,000 annually after that.

CBO assumes the federal share of benefits at the enhanced match rate would be about \$1,960 per adult and \$1,400 per child (in 2002 dollar). CBO estimates that the federal costs of the provision would be about \$300 million over the 2002–2006 period and about \$700 million over the 2002–2011 period.

#### Revenues

S. 1209, if enacted, would decrease federal revenues by about \$39 million over the 2002–2011 period. The bill would increase the personal-duty exemption for persons entering the United States from \$400 to \$800. This provision would increase the amount of goods that travelers from abroad could bring in free of duty. Based on information from the Customs Service, CBO estimates that this provision would decrease revenues by about \$3 million in 2002 and by \$4 million in each year thereafter.

S. 1209 also would require that persons who prepared, stored, handled, or distributed certain fish and shellfish products labeled such products with the country of origin. Persons who failed to comply with the labeling requirements would be subject to civil penalties, which are deposited in the general fund and counted as revenues. Based on information from the Department of Agriculture, CBO estimates that revenues from such penalties would increase by less than \$500,000 a year.

The bill also would require the Secretary of the Department of Agriculture to identify imports of articles that circumvent tariff-rate quotas (TRQs) on sugars, syrups, or sugar-containing products. A report would be provided to the President detailing the articles found to be circumventing such TRQs, which would be used to include such articles in the appropriate TRQ provisions of the Harmonized Tariff Schedule of the United States. Based on information from the Department of Agriculture, the International Trade Commission, and other trade sources, CBO expects that certain sugar-containing products would be included under the TRQ. There would consequently be fewer imports of such articles. CBO estimates that the revenue loss from the reduction in imports would be less than \$500,000 a year.

#### Spending subject to appropriation

Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost about \$3 billion over the 2002–2006 period. (About \$2.8 billion of this total would be for spending by the Customs Service.) For this estimate, CBO assumes that the amounts authorized by the bill will be appropriated near the start of each fiscal year and that outlays generally will follow historical spending rates for the authorized activities or for similar programs.

TAA for Firms.—Title II would authorize the appropriation of \$16 million each year over the 2002–2006 period for the Secretary of Commerce to provide trade adjustment assistance to firms. Based on information from the Department of Commerce, CBO estimates that implementing this provision would cost \$43 million





*Estimated impact on State, local, and tribal governments*

S. 1209 contains three intergovernmental mandates as defined by UMRA, but CBO estimates that the cost of complying with those mandates would be unlikely to exceed the threshold specified by UMRA (\$58 million in 2002, adjusted annually for inflation). Two of the three mandates would impose no costs on state or local governments; CBO cannot estimate the costs of the third mandate, but we expect that any such costs are not likely to exceed the UMRA threshold over the next five years.

*Intergovernmental mandates*

Section 231 would require states that do not have voluntary agreements with the DOL to administer the federally funded TAA program to make sure that workers are informed of their potential eligibility for benefits and given instructions on how to apply for assistance. This requirement would be an intergovernmental mandate as defined in UMRA. However, all states currently administer the TAA program under voluntary agreements, and it is likely that they would continue to do so. Consequently, there would be no budgetary impact on states as a result of this intergovernmental mandate.

Section 601 would prohibit state and local governments from considering COBRA premium assistance when determining an individual's eligibility for public benefits. This prohibition would be a preemption and an intergovernmental mandate as defined in UMRA. However, since the premium assistance would be a new benefit for individuals and the base use by governments to determine eligibility for benefits would remain constant, the mandate would impose no additional costs on state or local governments.

Finally, Section 931 would preempt local authority by authorizing the Commissioner of Customs to temporarily close U.S. ports of entry under certain circumstances. Since some port authorities are owned and operated by local government entities, such a preemption would be an intergovernmental mandate as defined in UMRA. CBO cannot determine the costs of this mandate, however, because we cannot predict either the likelihood of such closures or the magnitude of losses to any affected local government entities.

*Other impacts*

The bill also would make two options available to states in their Medicaid program. First, they could offer Medicaid coverage to uninsured individuals (and their families) who are eligible for TAA but who are not eligible for COBRA assistance or Medicaid under existing rules. This coverage could be provided for up to 12 months, and states providing this optional coverage would be eligible for an enhanced federal match of about 70 percent. CBO estimates that increased state spending as a result of this option would total \$118 million over the 2002–2006 period. Secondly, for individuals who are eligible for the 75 percent COBRA premium assistance from the federal government, states would be able to cover the remaining 25 percent of premiums through Medicaid if the individual's family income was below 200 percent of the poverty line. This optional coverage also would be available for up to 12 months. CBO estimates that increased state spending as a result of this option would total \$24 million over the 2002–2006 period.

Finally, the bill would authorize grants to certain communities with high unemployment rates. Grants would be awarded for developing strategic plans or for implementing parts of those plans designed to spur job growth and business activity. CBO estimates that \$30 million would be available for such grants over the 2002–2006 period.

*Estimated impact on the private sector*

S. 1209 would impose several private-sector mandates, as defined by UMRA, on certain employers providing health insurance coverage for their employees, transportation firms seeking approval from the U.S. Customs Service for entry into the United States or for clearance to proceed from a port or place in the United States, retailers selling certain fish, fresh fruit, and vegetables, and importers of sugar and other sugar containing products. CBO estimates that each of the mandates relating to health insurance and to U.S. Customs Service manifests would not involve costs that exceed the \$115 million threshold (for 2002) established by UMRA. In contrast, the mandate related to country-of-origin labeling for certain fish, fresh fruit, and vegetables has estimated costs exceeding the threshold. Finally, CBO cannot determine the direct costs of the mandate affecting the import of certain sugar and sugar-containing products.

Premium assistance for COBRA continuation coverage

Under current law, the Consolidated Omnibus Budget Reconciliation Act of 1985 imposes a mandate on private-sector employers by requiring them to continue to provide health insurance coverage to certain workers who are separated from employment. Although separated workers who elect to continue their coverage can be required to pay the employer 102 percent of the average cost of the insurance to obtain such coverage, research suggests that the actual cost of providing that coverage generally is greater than 102 percent. By increasing the number of separated workers who elect to continue their COBRA coverage, the provision of subsidies in title VI of S. 1209 would effectively increase the cost of the existing mandate on employers to provide continued coverage. Although CBO expects that the average cost of employees who are induced to take COBRA coverage because of the subsidies would be less than the cost of those who accept unsubsidized COBRA coverage under current law, there is still likely to be some added cost to employers. CBO estimates the direct cost of this provision would be small because few workers would participate.

U.S. Customs manifest requirements

Section 932 would require trucks, buses, and trains required to make entry or obtain clearance under the U.S. customs laws to provide by electronic transmission cargo manifest information in advance of such entry or clearance. The bill also would require trucks, buses, and trains with passengers arriving or departing the United States that must make entry or obtain clearance under the U.S. custom laws to provide by electronic transmission certain passenger and crew manifest information in advance of such entry or clearance. The costs for trucks, buses, and trains to provide the information when arriving or departing the United States would de-

pend on regulations to be prescribed by the Secretary of the Treasury. According to representatives of the transportation industry, the cost to implement an advanced electronic manifest system for such land carriers could be about \$45 million for the first year, mostly in start-up costs. The cost for such a system in the following years would drop to about \$15 million annually.

#### Country-of-origin labeling requirements

Section 1001 would require retailers to inform consumers, at the final point of sale, of the country of origin of certain fish, fresh fruits, and vegetables. Suppliers of those commodities would be required to provide the same information to retailers. The major costs associated with the new country-of-origin labeling requirements are related to the cost to segregate and preserve commodity identity, to label the commodity, and to maintain records.

The incremental cost of this mandate is uncertain. Although rare, some grocers and farmers voluntarily use labels to identify U.S. products. Also, data to estimate all of the compliance costs are not available. Moreover, compliance costs depend on the specific standards to be established by the Secretary of Agriculture. According to information from a representative for retailers of fresh fruit and vegetables, CBO estimates that labeling those commodities could cost \$200 million annually.

#### Tariff-rate quota requirements

Section 1002 would require the President to include any article circumventing the tariff-rate quotas on sugar and other sugar-containing products in the appropriate provision of the Harmonized Trade Schedule of the United States (HTS) based on reports to be provided by the Secretary of Agriculture. The inclusion of any such articles could be a new mandate on certain importers. However, because of the uncertainty regarding the findings of future reports, the timing of potential changes made by the President of the HTS, and the magnitude of the changes, CBO has no basis for estimating the direct cost of this provision on the private sector.

Estimate prepared by: Federal spending: TAA for Workers—Christina Hawley Sadoti and Todd Anderson; TAA for Farmers and Department of Agriculture—Dave Hull; TAA for Fishermen—Ken Johnson; TAA for Communities and Firms—Lanette Walker; COBRA Premiums and Medicaid—Tom Bradley, Jeanne De Sa, and Eric Rollins; Customs Service and Trade Agencies: Mark Grabowicz.

Revenues: Erin Whitaker.

Impact on State, local, and tribal governments: Leo Lex and Elyse Goldman.

Impact on the private sector: Ralph Smith and Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## VII. REGULATORY IMPACT AND OTHER MATTERS

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of the reported bill.

The bill makes a wide range of amendments improving and expanding the trade adjustment assistance program. Overall, the bill

will result in increases in regulatory burdens in some areas and decreases in others. While the net regulatory impact of all the amendments is difficult to estimate precisely because of the number and type of changes made in the program, the bill reduces or minimizes regulatory burdens wherever possible.

Responsibility for implementing the trade adjustment assistance program falls principally on the Federal Government, but regulatory burdens are also imposed on the States and, to a lesser extent, on municipalities and businesses. The major changes and shifts in regulatory impacts associated with each of these sectors are reviewed in the following discussion.

*States.*—States play a critical role in implementing the trade adjustment assistance program. Under existing law, States are responsible for making preliminary certification rulings with respect to NAFTA–TAA petitions and transmitting those petitions to the Secretary of Labor; providing rapid response services and outreach to affected workers; processing individual worker applications; referring workers to training; administering payment of training costs; and issuing trade adjustment allowance payments.

The reported bill will reduce the regulatory burden on States in several respects. First, Governors will no longer be required to make preliminary eligibility determinations or to transmit NAFTA–TAA petitions to the Secretary of Labor. Second, rather than administering two different TAA programs for workers, each with different deadlines and eligibility criteria, States will administer a single, unified program. Third, the bill facilitates the delivery of TAA benefits by States through existing WIA infrastructure.

The reported bill will increase the regulatory burden on States in several respects. First, States will be required to provide certain data and reports concerning TAA program operations to the Department of Labor. Although these requirements will impose a regulatory and paperwork burden on the States, however, the purpose of the requirements is to enhance overall program efficiency and accountability by creating a mechanism for tracking program outcomes. This will ultimately benefit the States through better resource allocation. Second, States will be permitted, but not required, to administer the COBRA premium assistance program and to offer the temporary Medicaid coverage provided for in title VI. Third, in order for a Community Economic Development Coordinating Committee to meet the representativeness requirements of new section 274(b)(1) of chapter 4 of title II of the Trade Act of 1974, it must include representatives of the State Government. However, although formation of a Community Economic Development Coordinating Committee is required for participation in the trade adjustment assistance for communities program, no community is required to participate in the program.

Several significant changes made by the reported bill will have no regulatory impact on the States. In particular, there will not be any significant additional regulatory impact on States from the establishment of trade adjustment assistance programs for farmers, ranchers, and fishermen or from the amendments concerning Customs authorization, country of origin labeling, and sugar policy.

*Municipalities.*—The only significant regulatory impact of the bill on municipalities will be the requirement in new section 274(b)(1) of chapter 4 of title II of the Trade Act of 1974, which requires each

Community Economic Development Coordinating Committee to include representatives of local and regional governments. Although formation of a Community Economic Development Coordinating Committee is required for participation in the trade adjustment assistance for communities program, no community is required to participate in the program.

*Businesses.*—The reported bill will increase the regulatory burden and impose certain additional paperwork requirements on businesses which are currently required by law to provide COBRA continuation health insurance coverage for their employees and on providers of group health plans. Such entities will be required to provide certain additional notifications to COBRA-eligible employees and to accept and account for certain payments. However, CBO estimates the direct cost to businesses of these requirements to be small.

The country-of-origin labeling provisions in section 1001 of the reported bill will impose new regulatory burdens on retailers of certain fish, fresh fruits, and vegetables, who will be required to segregate and preserve commodity identity, label commodities at the point of sale, and maintain records. The actual cost of compliance to retailers will depend upon regulations adopted by the Secretary of Agriculture. Similarly, the sugar policy provisions in section 1002 may result in the inclusion of new articles in tariff-rate quotas, with a potential regulatory burden on importers which cannot be predicted at this time.

In addition, the Customs authorization title of the reported bill will impose additional regulatory burdens on certain land, air, or vessel carriers in connection with antiterrorism provisions. Specifically, these provisions require trucks, buses and trains required to make entry or obtain clearance under U.S. customs laws to provide by electronic transmission cargo manifest information in advance of any entry or clearance. The provisions also require land, air, or vessel carriers with passengers arriving or departing the United States to provide by electronic transmission certain passenger and crew manifest information in advance of arriving or departing the United States

*Personal Privacy.*—With the following exception, the reported bill does not affect the personal privacy of individuals: The Customs authorization title includes provisions which may affect the personal privacy of individuals. Specifically, the title provides Customs with new authority under certain circumstances to search outbound mail.

*Intergovernmental Mandates.*—The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4). The Committee has reviewed the provisions of S. 1209 as approved by the Committee on December 4, 2001. In accordance with the requirements of Pub. L. No. 104–04, the Committee has determined that the bill contains several intergovernmental mandates, as defined in the UMRA. Two would not affect the budgets of State, local, or tribal governments. First, the requirement that states that do not have voluntary agreements with the Department of Labor to administer the federally funded TAA program meet certain notification requirements with respect to potentially eligible workers is not likely to have any budgetary impact on States because all States currently administer

the TAA program under voluntary agreements and are likely to continue to do so. Second, the prohibition on State and local governments from considering COBRA premium assistance when determining an individual's eligibility for public benefits is not likely to have any budgetary impact on States because it would not change the base used by governments to determine eligibility for benefits. The third intergovernmental mandate involves the preemption of local authority by authorizing the Commissioner of Customs under certain circumstances to temporarily close U.S. ports of entry, some of which are owned and operated by local government entities. Because the likelihood of such closures cannot be predicted, there is no way to estimate the extent to which this provision could result in budgetary costs to any local government.

## VIII. MINORITY AND ADDITIONAL VIEWS

### MINORITY VIEWS OF SENATORS GRASSLEY, HATCH, MURKOWSKI, LOTT, NICKLES, THOMPSON, KYL AND THOMAS

We reluctantly oppose S. 1209 in its current form. Our opposition is based upon substantive concerns with the bill and procedural irregularities which occurred during consideration of the bill before the Senate Finance Committee.

This is highly regrettable. Trade Adjustment Assistance has long enjoyed strong bipartisan support in the Finance Committee. Unfortunately, this bill is a notable departure from our history of bipartisanship in this area. We hope that the bill will be improved as it proceeds through the legislative process.

#### SUBSTANTIVE CONCERNS

There are significant substantive concerns with the Majority report and the bill. First, we disagree with the premise in the Majority report that globalization has resulted in downward wage pressure in the United States. In fact, a short report by the non-partisan Congressional Research Service recently concluded that "there is likely little causality running from a rising level of trade to poor domestic wage performance. Slow average wage growth is fully and credibly linked to poor productivity growth. A small share of rising wage inequality can be linked to trade, but the great bulk of this trend is probably more soundly rooted in a rising relative demand for skill, growing out of a changed pattern of technological change." Craig K. Elwell, *Is Globalization the Force Behind Poor U.S. Wage Performance?: An Analysis*, Congressional Research Service Short Report for Congress, Updated January 12, 2001.

Second, we believe that international trade has proved to be a positive force in our economy. One in ten Americans work at jobs that depend on the export of goods and services. Exports drive more than one-fourth of our economic growth. International trade enhances the quality of life for the vast majority of Americans. Conversely, restrictions on imports are like taxes. They raise the cost of everyday products like food, clothing, and electronic goods. Because of past trade agreements such as the North American Free Trade Agreement and the Uruguay Round, the typical American family of four realizes benefits of roughly \$1,300 to \$2,000 annually. We want to ensure that the American people continue to reap these benefits. That is why we strongly support renewing Trade Promotion Authority for the President at the earliest possible time.

However, we understand that growth from trade creates change in an economy, and change results in the dislocation of some workers. We concur that the U.S. Government can play a productive role in ensuring that workers who are displaced receive the training they need to re-enter the workforce as quickly as possible. That



is why we support Trade Adjustment Assistance. Still, there are some significant problems with S. 1029 as currently written which need to be addressed. A summary of our concerns follows.

#### SECONDARY WORKERS

The current bill covers secondary workers in supplier or downstream firms that provide goods and services to a firm certified as eligible for Trade Adjustment Assistance. We are concerned with this provision for a number of reasons. First, it is not clear that there is a need to expand Trade Adjustment Assistance to secondary workers. Most secondary workers are already covered under the Workforce Investment Act. Second, we are concerned that including secondary workers in upstream and downstream industries with no limitations will make the program too costly and very difficult to administer. For example, the current bill requires the Department of Labor to certify whether primary and secondary workers are eligible for Trade Adjustment Assistance within 40 days, as opposed to 60 days under current law. Thus, the current bill not only reduces the time available for certifying primary workers, but it also vastly expands the pool of workers to be certified within that time frame. It is not at all clear that the Department of Labor can effectively administer these provisions without a substantial increase in its budget.

We would urge our Democratic colleagues to carefully consider limitations upon who can qualify as a secondary worker for purposes of Trade Adjustment Assistance benefits. We would also suggest that there may be a need to differentiate between primary and secondary workers for purposes of petition review.

#### CONSOLIDATION OF ELIGIBILITY REQUIREMENTS

The current bill consolidates the eligibility requirements of the current Trade Adjustment Assistance program and NAFTA Trade Adjustment Assistance but drops the current law requirement that a firm also experience a decrease in sales or production to be eligible for Trade Adjustment Assistance.

Dropping the requirement that a firm also experience a decrease in sales or production could result in certification of workers whose firm is thriving but laying off workers due to technological change or other reasons. Furthermore, eliminating the link between job loss and decrease in sales or production will make it more difficult to demonstrate that the workers are dislocated due to imports.

#### TRAINING REQUIREMENTS WAIVERS

S. 1209 changes current law to create 11 conditions under which training requirements may be waived. While we support reducing the number of conditions under which waivers can be granted, there is concern that some of the categories of waivers in the bill are overly broad and difficult to define.

#### SUPPORTIVE SERVICES

The current bill grants states the authority to apply for and receive National Emergency Grant funding to cover the costs of supportive services, including transportation, childcare, and dependent

care. We believe it is inefficient and impractical to use National Emergency Grants to provide supportive services in this context. Instead of requiring a separate application process with a separate funding source we believe it would be more efficient to have dislocated workers dually enrolled in the Workforce Investment Act dislocated worker program. This would give workers access to the full array of Workforce Investment Act transition services at no additional cost.

#### PERFORMANCE EVALUATION AND UNFUNDED MANDATES

We strongly support establishing a system to evaluate the performance of the Trade Adjustment Assistance program. However, we believe that the performance criteria in S. 1209 emphasizes process over results and includes subjective measures of performance which are difficult to define and evaluate. We are also concerned that the performance evaluation requirements in the current bill could create an unfunded mandate on states by requiring a tremendous increase in data infrastructure at the state level. We believe that requiring states to design and implement a new wage insurance program without providing additional resources for them to do so is also an unfunded mandate.

#### HEALTH INSURANCE COVERAGE OPTIONS FOR INDIVIDUALS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE

We believe the health insurance mechanisms in S. 1209 that require the creation of new federal entitlement programs and the expansion of others, are inappropriate. Trade Adjustment Assistance has never provided health insurance assistance, temporary or otherwise, to eligible workers, and we cannot support doing so now.

S. 1209's health insurance coverage options are permanent. The bill's subsidy program forces those eligible for COBRA coverage to keep it, even though those policies are inflexible and typically more expensive than others in the market. According to one recent study, families pay about \$7,200 for COBRA coverage each year. See Commonwealth Fund, *How the Slowing U.S. Economy Threatens Employer-Based Health Insurance*, November 2001. According to the non-partisan Congressional Research Service, the cost of an average policy in the individual market is about \$2,400 per year. We believe creating a new federal entitlement program that subsidizes only the marketplace's most expensive, least efficient insurance product is unacceptable.

For those workers no eligible for COBRA (and only 57 percent of non-elderly workers were potentially eligible for COBRA in 1999 according to a recent, see Urban Institute, *Could Subsidizing COBRA Health Insurance Coverage Help Most Low-Income Unemployed?*, October 2001), the bill gives states the right to open up their Medicaid programs to cover these workers. Medicaid programs are already under severe financial pressure, and we believe states are not likely to take on the additional costs. Further, since each state legislature would have to act to amend its state Medicaid plan, delays would be substantial, and would leave workers with gaps in their coverage. We believe expanding this already unstable entitlement program for eligible workers is also not acceptable.

We believe it would be a serious mistake to set a new standard for providing health insurance coverage under Trade Adjustment Assistance. We especially oppose any approach that gives workers and their families as single “take it or leave it” option of purchasing COBRA or enrolling in Medicaid when more affordable policies exist.

#### TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

The current bill authorizes a new program to be administered by the Department of Commerce which would provide assistance to trade-affected communities. This is achieved by creating a new Office of Community Trade Adjustment within the Economic Development Administration. We believe that creating such an office duplicates DEA’s long-standing Office of Economic Adjustment Assistance and is therefore unnecessary and inefficient.

Harmonization of the NAFTA Trade Adjustment Assistance program and the Trade Adjustment Assistance program is a goal which we support. We also support enhancing and improving the current program. However, as outlined above, the proposal which passed the Committee takes the process in the wrong direction and is too costly. The Congressional Budget Office estimated that S. 1209 would result in total direct spending of \$12.4 billion over the 2002–2011 period, an increase of \$8.6 billion more than the existing program over that same time period.

We remain open to working with our Democratic colleagues to improve the current bill in the hopes that we can develop a bipartisan product which will not only be more effective and efficient, but which we can all support.

## PROCEDURAL IRREGULARITIES

We are also concerned about a number of procedural irregularities which occurred during consideration of the bill. Due to time constraints, there were several amendments pending during consideration of the bill which were neither open to debate or were Senators allowed to request a roll call vote. We believe that it is important for all Senators to have an opportunity to be heard and for every Senator to have an opportunity to request a rollcall vote on their amendment. We hope to preserve these rights during consideration of future legislation in the Finance Committee.

In addition, it is not at all clear that consideration of the bill was concluded within the time frame allotted to the Committee. We understand that the 2-hour rule was invoked during consideration of this bill. The 2-hour rule, if specifically invoked by a member, stipulates that no committee can meet for longer and two hours once the Senate is in session. While there were attempts to complete Committee consideration of the bill within two hours, there is some question as to whether these attempts were successful.

CHARLES E. GRASSLEY.  
FRANK H. MURKOWSKI.  
TRENT LOTT.  
JON KYL.  
ORRIN G. HATCH.  
DON NICKLES.  
FRED THOMPSON.  
CRAIG THOMAS.

## ADDITIONAL VIEWS OF SENATOR GRASSLEY

### CUSTOMS USER FEES

I am pleased that the Chairman included my amendment expressing the Sense of the Senate that Customs User Fees should be used only for Customs purposes. However, the underlying bill disregards the amendment as I understand that the Chairman intends to reauthorize the collection of Customs User Fees to pay for the expanded Trade Adjustment Assistance program which is clearly not for Customs purposes. I am concerned about this approach for a number of reasons. First, this is a continuation of a trend we have seen this year. Customs User Fees have already been used as an offset for an unrelated program, S. 1052, the "Bipartisan Patients Protection Act."

Second, I have substantive concerns with this approach. When Congress first authorized customs fees the avowed purpose was to underwrite the costs of Customs commercial operations. I believe that if fees are to be extended they should be reauthorized for Customs purposes. And I am not alone in this view. The National Association of Foreign Trade Zones writes:

"[We] recently learned that the Trade Adjustment Assistance Bill \* \* \* includes language that would provide for extension of the Merchandise Processing Fee to offset the cost of the TAA program. As you are aware, the fee was originally established by Congress to offset the cost of the commercial operations of the U.S. Customs Service. The [National Association of Foreign Trade Zones] is strongly opposed to any extension or reauthorization of the [Merchandise Process Fee] that would divert the funds from their congressionally intended purpose."

And the National Association of Foreign Trade Zones is not alone. The National Customs Brokers & Forwarders Association of America writes:

"[We are] aware of pending legislation due for consideration regarding Trade Adjustment Assistance. While [we] support TAA, we cannot support the use of user fees to 'pay for' this program. Merchandise processing fees need to be directed to the agency for which they were collected—the U.S. Customs Service."

I am afraid that many Senators are under the mistaken impression that extending these fees is simply keeping a convenient money stream flowing. That is not so.

The Customs User Fee structure includes what those fees are spent on. By extending fees for additional years, Congress is also extending those spending priorities for those years. If we keep extending the fees as a way to pay for unrelated activities, we extend the whole way the fee money is spent which by law is on commercial activities.

In fact, the Customs Service stated in a memorandum I received on June 20, 2001 that using Customs User Fees as an offset could harm its ability to offset Customs activities.

The Customs Service is currently reviewing ways to restructure Customs User Fees which are set to expire in 2003. If we extend the fees in this bill, and that extension becomes law, we may never have an opportunity to effectively restructure these fees. I believe we should give the Customs Service the opportunity to review these fees, and not preempt their efforts by extending the fees before the review is complete.

#### CUSTOMS REAUTHORIZATION

I am pleased that S. 1209 includes Senator Kyl's amendment reauthorizing appropriations for the U.S. Customs Service and for the Office of the United States Trade Representative. The Kyl amendment is exactly like H.R. 3129, the Customs Border Security Act of 2001, except that two sections of that bill on Customs pay reform and immunity are not included.

The amendment authorizes the U.S. Customs Service, International Trade Commission, and Office of the U.S. Trade Representative. It includes numerous provisions and funding authorizations to fight terrorism and illegal drug trafficking. The Administration has also requested that Customs be able to search outgoing mail since U.S. mail is sometimes used to transmit laundered money out of the country. The amendment allows Customs, when appropriate, to search outbound mail to help stop terrorism and illegal drug trafficking. The amendment addresses privacy issues—no letter may be read by Customs officers unless a valid warrant is obtained. The amendment will get new, better equipment and increased personnel to Customs for its air and sea interdiction programs (\$360 million total over two years), and for its U.S.-Mexico border operations (\$90 million).

The amendment includes a provision to require advanced electronic manifesting on passengers and cargo, so that the Customs Service will have important information in advance on passengers and cargo.

The amendment will also authorize funding to reestablish the New York Customs offices destroyed on September 11.

The amendment authorizes funding for Customs' new automation system, the Automated Commercial Environment. In 1998, Customs processed 19.7 million commercial entries. This volume is expected to double by 2005. The current automation system is on the brink of continual brownouts and possible shut downs. If this happens, it will cost American taxpayers millions of dollars.

I am pleased that the Chairman recognizes the critical importance of authorizing appropriations for the Customs Service. Including Customs authorization in this bill will help us track down terrorists, fight illegal drug trafficking, and strengthen our economy by facilitating cross-border trade.

#### HEALTH INSURANCE COVERAGE OPTIONS FOR INDIVIDUALS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE

While I support a limited program to provide temporary health insurance assistance to individuals eligible for Trade Adjustment

Assistance, I believe the mechanisms in S. 1209, which require the creation of new federal entitlement programs and the expansion of others, are inappropriate. I believe that any federal relief provisions in this area should be targeted, time-limited and should provide maximum flexibility for workers. More specifically, I believe it is important to ensure that those eligible for temporary health insurance assistance under S. 1209 have the option of using that assistance to purchase health insurance products in the individual market that best suits their needs.

CHUCK GRASSLEY.

## ADDITIONAL VIEWS OF SENATOR MURKOWSKI

I join Senator Grassley in expressing my disappointment with S. 1209 which, in its current form, I believe represents a lost opportunity to enact meaningful and much-needed legislation. While there is much in S. 1209 which I find an objectionable exercise in partisan politics, I believe there are many aspects of S. 1209 on which Republicans and Democrats can agree.

Unfortunately, despite the glimmer of compromise on the margins of S. 1209, the bill is fatally flawed by a partisan and unsupportable premise: that trade is itself a problem which somehow requires correction.

The United States economy is founded on the principles of the market. When you are more successful than your competitor across the street, your competitor either adjusts or is forced to engage in more productive economic activity. That is the reality of a market economy.

Absent artificial barriers, the same forces which operate in the domestic market apply internationally. That your competitor is across the planet, and not just the street, should not substantially alter the equation.

One of the functions of good government is to ease the transitions of those affected by competition into more productive endeavors. The Workforce Investment Act (WIA) is one means by which government plays a role in helping Americans navigate the ups and downs of a competitive economy. Assistance to those seeking workplace training; access to consultative and marketing resources for troubled firms; and help for those directly and indirectly affected by the harsh realities of competition are wholly appropriate.

Applying different standards to those affected by international and domestic competition is not only arbitrary, it also perpetuates the myth that international trade requires special government intervention. Trade—or globalization—is not a special problem. Globalization is a natural extension of the American economic system beyond the domestic market.

Workforce training and other programs embodied by TAA and the WIA are needed to mitigate the effects on individuals and firms of the natural competitive pressures of the marketplace, not because globalization creates special downward pressure on domestic wages. In this respect, S. 1209 misses the mark and misses a golden opportunity.

Had the Chairman sought a more collaborative and bipartisan process in pursuit of passage of S. 1209, the Finance Committee might have undertaken a more comprehensive approach to Trade Adjustment Assistance, one which sought to rationalize the approach taken in earlier TAA programs with that taken in legislation such as the WIA.



Regardless of the fate of S. 1209, I would hope that the Finance Committee can come together to produce a more rational policy the primary effect of which is not to demonize trade as an instrument of economic decline. If our aim is to optimize the allocation of economic resources while minimizing the human costs of the American economic system, we can do much better than S. 1209.

FRANK H. MURKOWSKI.

## IX. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### TRADE ACT OF 1974

*	*	*	*	*	*	*
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*	*	*	*	*	*	*

#### TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

##### CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

- Sec. 201. Action to facilitate positive adjustment to import competition.
- Sec. 202. Investigations, determinations, and recommendations by Commission.
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##### 【CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

###### 【Subchapter A—Petitions and Determinations

- 【Sec. 221. Petitions.
- 【Sec. 222. Group eligibility requirements.
- 【Sec. 223. Determination by Secretary of Labor.
- 【Sec. 224. Study by Secretary of Labor when International Trade Commission begins investigations.
- 【Sec. 225. Benefit information to workers.

###### 【Subchapter B—Program Benefits

###### 【PART I—TRADE READJUSTMENT ALLOWANCES

- 【Sec. 231. Qualifying requirements for workers.
- 【Sec. 232. Weekly amounts.
- 【Sec. 233. Limitations on trade readjustment allowances.
- 【Sec. 234. Application of State laws.

###### 【PART II—TRAINING, OTHER EMPLOYMENT SERVICES AND ALLOWANCES

- 【Sec. 235. Employment services.
- 【Sec. 236. Training.
- 【Sec. 237. Job search allowances.
- 【Sec. 238. Relocation allowances.

###### 【Subchapter C—General Provisions

- 【Sec. 239. Agreements with States.
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- 【Sec. 241. Payments to States.
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- 【Sec. 244. Penalties.
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- 【Sec. 247. Definitions.
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- 【Sec. 249. Subpoena power.
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- 【Sec. 251. Petitions and determinations.
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- 【Sec. 256. Delegation of functions to Small Business Administration; authorization of appropriations.
- 【Sec. 257. Administration of financial assistance.
- 【Sec. 258. Protective provisions.
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- 【Sec. 261. Definition of firm.
- 【Sec. 262. Regulations.

- \* \* \* \* \*
- 【Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding.
  - 【Sec. 265. Assistance to industries.

【CHAPTER 4—ADJUSTMENT ASSISTANCE FOR COMMUNITIES

- 【Sec. 271. Petitions and determinations.
- 【Sec. 272. Trade impacted area councils.
- 【Sec. 273. Program benefits.
- 【Sec. 274. Community adjustment assistance fund and authorization of appropriations.】

CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

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- Sec. 221. Definitions.*
- Sec. 222. Agreements with States.*
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*Subchapter B—Certifications*

- Sec. 231. Certification as adversely affected workers.*
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PART I—GENERAL PROVISIONS

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- Sec. 291. Definitions.*
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*CHAPTER 7—ADJUSTMENT ASSISTANCE FOR FISHERMEN*

- Sec. 299. Definitions.*
- Sec. 299A. Petitions; group eligibility.*
- Sec. 299B. Determinations by Secretary.*
- Sec. 299C. Study by Secretary when International Trade Commission begins investigation.*
- Sec. 299D. Benefit information to producers.*

Sec. 299E. Qualifying requirements for producers.  
Sec. 299F. Fraud and recovery of overpayments.  
Sec. 299G. Authorization of appropriations.

## TITLE NEGOTIATING AND OTHER AUTHORITY

\* \* \* \* \*

### CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

#### SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) \* \* \*

\* \* \* \* \*

(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions **[not to exceed]** the following:

- [(i) \$23,250,000 for fiscal year 1991.**
- [(ii) \$21,077,000 for fiscal year 1992.]**
- (i) \$30,000,000 for fiscal year 2002.*
- (ii) \$31,000,000 for fiscal year 2003.*

(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

- (i) not to exceed \$98,000 may be used for entertainment and representation expenses of the Office; and
- [(ii) not to exceed \$2,050,000 may be used to pay the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the United States-Canada Free-Trade Agreement; and]**
- [(iii) (i) not to exceed \$1,000,000 shall remain available until expended.**

\* \* \* \* \*

*(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.*

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## TITLE II—RELIEF FROM INJURY CAUSED BY IMPORT COMPETITION

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## **[CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS**

### **[Subchapter A—Petitions and Determinations**

#### **[SEC. 221. PETITIONS.**

[(a) A petition for a certification of eligibility to apply for adjustment assistance under this subchapter may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the “Secretary”) by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

[(b) If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

#### **[SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.**

[(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this subchapter if he determines—

[(1) that a significant number or proportion of the workers in such workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

[(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, and

[(3) that increases of imports of articles like or directly competitive with articles produced by such workers’ firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

[(b) For purposes of subsection (a)(3)—

[(1) The term “contributed importantly” means a cause which is important but no necessarily more important than any other cause.

[(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

[(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

#### **[SEC. 223. DETERMINATIONS BY SECRETARY OF LABOR.**

[(a) As soon as possible after the date on which a petition is filed under section 221, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 222 and shall issue a certification of eligibility to apply for assistance under this subchapter

covering workers in any group which meets such requirements. Each certification shall specify the date on which the total or partial separation began or threatened to begin.

[(b) A certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm before his application under section 231 occurred—

[(1) more than one year before the date of the petition on which such certification was granted, or

[(2) more than 6 months before the effective date of this chapter.

[(c) Upon reaching his determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register together with his reasons for making such determination.

[(d) Whenever the Secretary determines, with respect to any certification of eligibility of the workers of a firm or subdivision of the firm, that total or partial separations from such firm or subdivision are no longer attributable to the conditions specified in section 222, he shall terminate such certification and promptly have notice of such termination published in the Federal Register together with his reasons for making such determination. Such termination shall apply only with respect to total or partial separations occurring after the termination date specified by the Secretary.

**[SEC. 224. STUDY BY SECRETARY OF LABOR WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

[(a) Whenever the International Trade Commission (hereafter referred to in this chapter as the “Commission”) begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of such investigation, and the Secretary shall immediately begin a study of—

[(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance, and

[(2) the extent to which the adjustment of such workers to the import competition may be facilitated through the use of existing programs.

[(b) The report of the Secretary of the study under subsection (a) shall be made to the President not later than 15 days after the day on which the Commission makes its report under section 202(f). Upon making this report to the President, the Secretary shall also promptly make it public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

**[SEC. 225. BENEFIT INFORMATION TO WORKERS.**

[(a) The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter and about the petition and application procedures, and the appropriate filing dates, for such allowances, training and services. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall

make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance. The Secretary shall inform the State Board for Vocational Education or equivalent agency and other public or private agencies, institutions, and employers, as appropriate, of each certification issued under section 223 and of projections, if available, of the needs for training under section 936 as a result of such certification.

[(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A or subchapter D of this chapter—

[(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

[(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

[(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A or subchapter D in newspapers of general circulation in the areas in which such workers reside.

## **[Subchapter B—Program Benefits**

### **[PART I—TRADE READJUSTMENT ALLOWANCES**

#### **[SEC. 231. QUALIFYING REQUIREMENTS FOR WORKERS.**

[(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins more than 60 days after the date on which the petition that resulted in such certification was filed under section 221, if the following conditions are met:

[(1) Such worker's total or partial separation before his application under this chapter occurred—

[(A) on or after the date, as specified in the certification under which he is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

[(B) before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

[(C) before the termination date (if any) determined pursuant to section 223(d).

[(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of \$30 or more a week in adversely affected employment with a single firm or subdivision of a firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purposes of this paragraph, any week in which such worker—



[(A) is on employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training.

[(B) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States,

[(C) had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm or subdivision, or

[(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is "Federal service" as defined in 5 U.S.C. 8521(a)(1),

shall be treated as a week of employment at wages of \$30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)), may be treated as weeks of employment under this sentence.

[(3) Such worker—

[(A) was entitled to (or would be entitled to if he applied therefor) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

[(B) has exhausted all rights to any unemployment insurance to which he was entitled (or would be entitled if he applied therefor); and

[(C) does not have an unexpired waiting period applicable to him for any such unemployment insurance.

[(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act.

[(5) Such worker—

[(A) is enrolled in a training program approved by the Secretary under section 236(a),

[(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

[(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).

[(b)(1) If—

[(A) the Secretary determines that—

[(i) the adversely affected worker—

[(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

[(II) has ceased to participate in such training program before completing such training program, and

[(ii) there is no justifiable cause for such failure or cessation, or

[(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2), no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

[(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

[(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

[(B) before the first week following the week in which such certification is made under subchapter (A).

[(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

[(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

[(i) submit to such worker a written statement certifying such finding, and

[(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

[(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible or appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

[(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

[(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.

**[SEC. 232. WEEKLY AMOUNTS.**

[(a) Subject to subsections (b) and (c), the trade readjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to 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)) reduced (but not below zero) by—

[(1) any training allowance deductible under subsection (c); and

[(2) income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

[(b) Any adversely affected worker who is entitled to trade readjustment allowances and who is undergoing training approved by the Secretary, shall receive for each week in which he is undergoing any such training, a trade readjustment allowance in an amount (computed for such week) equal to the amount computed under subsection (a) or (if greater) the amount of any weekly allowance for such training to which he would be entitled under any other Federal law for the training of workers, if he applied for such allowance. Such trade readjustment allowance shall be paid in lieu of any training allowance to which the worker would be entitled under such other Federal law.

[(c) If a training allowance under any Federal law other than this Act, is paid to an adversely affected worker for any week of unemployment with respect to which he would be entitled (determined without regard to any disqualification under section 231(b)) to a trade readjustment allowance if he applied for such allowance, each such week shall be deducted from the total number of weeks of trade readjustment allowance otherwise payable to him under section 233(a) when he applies for a trade readjustment allowance and is determined to be entitled to such allowance. If such training allowance paid to such worker for any week of unemployment is less than the amount of the trade readjustment allowance to which he would be entitled if he applied for such allowance, he shall receive, when he applies for a trade readjustment allowance and is determined to be entitled to such allowance, a trade readjustment allowance for such week equal to such difference.

**[SEC. 233. LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.**

[(a)(1) The maximum amount of trade readjustment allowances payable with respect to the period covered by any certification to an adversely affected worker shall be the amount which is the product of 52 multiplied by the trade readjustment allowance payable to the worker for a week of total unemployment (as determined under section 232(a)), but such product shall be reduced by the total sum of the unemployment insurance to which the worker was entitled (or would have been entitled if he had applied therefor) in the worker's first benefit period described in section 231(a)(3)(A).

[(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

[(A) within the period which is described in section 231(a)(1), and

[(B) with respect to which the worker meets the requirements of section 231(a)(2).

[(3) Notwithstanding paragraph (1), in order to assist the adversely affected worker to complete training approved for him under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that—

[(A) follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

[(B) begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

[Payments for such additional weeks may be made only for weeks in such 26-week period during which the individual is participating in such training.

[(b) A trade readjustment allowance may not be paid for an additional week specified in subsection (a)(3) if the adversely affected worker who would receive such allowance did not make a bona fide application to a training program approved by the Secretary under section 236 within 210 days after the date of the worker's first certification of eligibility to apply for adjustment assistance issued by the Secretary, or, if later, within 210 days after the date of the worker's total or partial separation referred to in section 231(a)(1).

[(c) Amounts payable to an adversely affected worker under this part shall be subject to such adjustment on a week-to-week basis as may be required by section 232(b).

[(d) Notwithstanding any other provision of this Act or other Federal law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that such worker would, but for this subsection, be entitled to in that extended benefit period shall be reduced (but not below zero) by the number of weeks for which the worker was entitled, during such benefit year, to trade readjustment allowances under this part. For purposes of this paragraph, the terms "benefit year" and "extended benefit period" shall have the same respective meanings given to them in the Federal-State Extended Unemployment Compensation Act of 1970.

[(e) No trade readjustment allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training.

[(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

[(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

[(2) the break is provided under such training program.

#### **[SEC. 234. APPLICATION OF STATE LAWS.**

[Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law—

[(1) under which an adversely affected worker is entitled to unemployment insurance (whether or not he has filed a claim for such insurance), or

[(2) if he is not entitled to unemployment insurance, of the State in which he was totally or partially separated, shall apply to any such worker who files a claim for trade adjustment allowances. The State law so determined with respect to a separation of a worker shall remain applicable, for purposes of the preceding sentence, with respect to such separation until such worker becomes entitled to unemployment insurance under another State law (whether or not he has filed a claim for such insurance).

## **[PART II—TRAINING, OTHER EMPLOYMENT SERVICES, AND ALLOWANCES**

### **[SEC. 235. EMPLOYMENT SERVICES.**

[The Secretary shall make every reasonable effort to secure for adversely affected workers covered by a certification under subchapter A of this chapter counseling, testing, and placement services, and supportive and other services, provided for under any other Federal law. The Secretary shall, whenever appropriate, procure such services through agreements with the State.

### **[SEC. 236. TRAINING.**

[(a)(1) If the Secretary determines that—

[(A) there is not suitable employment (which may include technical and professional employment) available for an adversely affected worker.

[(B) the worker would benefit from appropriate training.

[(C) there is a reasonable expectation of employment following completion of such training,

[(D) training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers),

[(E) the worker is qualified to undertake and complete such training, and

[(F) such training is suitable for the worker and available at a reasonable cost,

the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on his behalf by the Secretary directly or through a voucher system. Insofar as possible, the Secretary shall provide or assure the provision of such training on the job, which shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

[(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed \$80,000,000, except that for fiscal year 1997, the total amount of payments made under paragraph (1) shall not exceed \$70,000,000.

[(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such

estimate is to be apportioned among the States for the remainder of such fiscal year.

[(3) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

[(4)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

[(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

[(i) have already been paid under any other provision of Federal law, or

[(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

[(C) The provisions of this paragraph shall not apply to, or take into account, any funds, provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

[(5) The training programs that may be approved under paragraph (1) include, but are not limited to—

[(A) on-the-job training,

[(B) any training program provided by a State pursuant to section 303 of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998,

[(C) any training program approved by a private industry council established under section 102 of such Act,

[(D) any program of remedial education,

[(E) any training program (other than a training program described in paragraph (7) for which all, or any portion, of the costs of training the worker are paid—

[(i) under any Federal or State program other than this chapter, or

[(ii) from any source other than this section, and

[(F) any other training program approved by the Secretary.

[(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

[(i) under any Federal or State program other than this chapter, or

[(ii) from any source other than this section.

[(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subparagraph (A).

[(7) The Secretary shall not approve a training program if—

[(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

[(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

[(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs for such training program paid under the plan or program.

[(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

[(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).

[(b) The Secretary may, where appropriate, authorize supplemental assistance necessary to defray reasonable transportation and subsistence expenses for separate maintenance when training is provided in facilities which are not within commuting distance of a worker's regular place of residence. The Secretary may not authorize—

[(1) payments for subsistence that exceed whichever is the lesser of (A) the actual per diem expenses for subsistence, or (B) payments at 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations, or

[(2) payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations, and

[(c) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—

[(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

[(2) such training does not impair existing contracts for services or collective bargaining agreements.

[(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

[(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

[(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

[(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

[(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified and pursuant to section 222,

[(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

[(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1),( 2), (3), (4), (5), and (6), and

[(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).

[(d) A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under subsection (a), because of leaving work which is not suitable employment to enter such training, or because of the application to any such week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work. The Secretary shall submit to the Congress a quarterly report regarding the amount of funds expended during the quarter concerned to provide training under paragraph (1) and the anticipated demand for such funds for any remaining quarters in the fiscal year concerned.

[(e) For purposes of this section the term "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

**[SEC. 237. JOB SEARCH ALLOWANCES.**

[(a) Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for a job search allowance. Such allowance, if granted, shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by regulations of the Secretary; except that—

[(1) such reimbursement may not exceed \$800 for any worker, and

[(2) reimbursement may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b)(1) and (2).

[(b) A job search allowance may be granted only—

[(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;



[(2) where the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides; and

[(3) where the worker has filed an application for such allowance with the Secretary before—

[(A) the later of—

[(i) the 365th day after the date of the certification under which the worker is eligible, or

[(ii) the 365th day after the date of the worker's last total separation; or

[(B) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.

[(c) The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.

**[SEC. 238. RELOCATION ALLOWANCES.]**

[(a) Any adversely affected worker covered by a certification under subchapter A of this chapter may file an application with the Secretary for a relocation allowance, subject to the terms and conditions of this section, if such worker files such application before—

[(1) the later of—

[(A) the 425th day after the date of the certification, or

[(B) the 425th day after the date of the worker's last total separation; or

[(2) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.

[(b) A relocation allowance may be granted only to assist an adversely affected worker in relocating within the United States and only if the Secretary determines that such worker cannot reasonably be expected to secure suitable employment in the commuting area in which he resides and that such worker—

[(1) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which he wishes to relocate, or

[(2) has obtained a bona fide offer of such employment, and

[(3) is totally separated from employment at the time relocation commences.

[(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days after the filing of the application therefor of (in the case of a worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training.

[(d) For the purposes of this section, the term "relocation allowance" means—

[(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2)) specified in regulations prescribed by the Secretary, incurred in transporting a worker and his family if any, and household effects, and

[(2) a lump sum equivalent to three times the worker's average weekly wage, up to a maximum payment of \$800.

**[Subchapter C—General Provisions****[SEC. 239. AGREEMENTS WITH STATES.**

[(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State, or with any State agency (referred to in this subchapter as “cooperating States” and “cooperating States agencies” respectively). Under such an agreement, the cooperating State agency (1) as agent of the United States, will receive applications for, and will provide payments on the basis provided in this chapter, (2) where appropriate, but in accordance with subsection (f), will afford adversely affected workers testing, counseling, referral to training and job search programs, and placement services, (3) will make any certifications required under section 231(c)(2), and (4) will otherwise cooperate with the Secretary and with other State and Federal agencies in providing payments and services under this chapter.

[(b) Each agreement under this subchapter shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

[(c) Each agreement under this subchapter shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

[(d) A determination by a cooperating State agency with respect to entitlement to program benefits under an agreement is subject to review in the same manner and to the same extent as determinations under the applicable State law and only in that manner and to that extent.

[(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.

[(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

[(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

[(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

[(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

[(4) as soon as practicable, interview and adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.

[(g) In order to promote the coordination of workforce investment activities in each State with activities carried out under this chapter, any agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.

**[SEC. 240. ADMINISTRATION ABSENT STATE AGREEMENT.**

[(a) In any State where there is no agreement in force between a State or its agency under section 239, the Secretary shall arrange under regulations prescribed by him for performance of all necessary functions under subchapter B of this chapter, including provision for a fair hearing for any worker whose application for payments is denied.

[(b) A final determination under subsection (a) with respect to entitlement to program benefits under subchapter B of this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

**[SEC. 241. PAYMENTS TO STATES.**

[(a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each cooperating State the sums necessary to enable such State as agent of the United States to make payments provided for by this chapter.

[(b) All money paid a State under this section shall be used solely for the purposes for which it is paid; and money so paid which is not used for such purposes shall be returned, at the time specified in the agreement under this subchapter, to the Secretary of the Treasury.

[(c) Any agreement under this subchapter may require any officer or employee of the State certifying payments for disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in such amount as the Secretary may deem necessary, and may provide for the payment of the cost of such bond from funds for carrying out the purposes of this chapter.

**[SEC. 242. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.**

[(a) No person designated by the Secretary, or designated pursuant to an agreement under this subchapter, as a certifying officer, shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment certified by him under this chapter.

[(b) No disbursing officer shall, in the absence of gross negligence or intent to defraud the United States, be liable with respect to any payment by him under this chapter if it was based upon a voucher signed by a certifying officer designated as provided in subsection (a).

**[SEC. 243. FRAUD AND RECOVERY OF OVERPAYMENTS.**

[(a)(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), such person shall

be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary may waive such repayment if such agency or the Secretary determines, in accordance with guidelines prescribed by the Secretary that—

[(A) the payment was made without fault on the part of such individual, and

[(B) requiring such repayment would be contrary to equity and good conscience.

[(2) Unless an overpayment is otherwise recovered, or waived under paragraph (1), the State agency or the Secretary shall recover the overpayment of deductions from any sums payable to such person under this chapter, under any Federal unemployment compensation law administered by the State agency or the Secretary, or under any other Federal law administered by the State agency or the Secretary which provides for the payment of assistance or an allowance with respect to unemployment, and notwithstanding any other provision of State law or Federal law to the contrary, the Secretary may require the State agency to recover any overpayment under this chapter by deduction from any unemployment insurance payable to such person under the State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

[(b) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that an individual—

[(1) knowingly has made, or caused another to make, a false statement or representation of a material fact, or

[(2) knowingly has failed, or caused another to fail, to disclose a material fact,

and as a result of such false statement or representation, or of such nondisclosure, such individual has received any payment under this chapter to which the individual was not entitled, such individual shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter.

[(c) Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the State agency or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the individual concerned, and the determination has become final.

[(d) Any amount recovered under this section shall be returned to the Treasury of the United States.

**[SEC. 244. PENALTIES.**

[Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 239 shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

**[SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

[(a) IN GENERAL.—There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 1998, and ending September 30, 2001, such sums as may be necessary to carry out the purposes of this chapter other than subchapter D.

[(b) SUBCHAPTER D.—There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 1998, and ending September 30, 2001, such sums as may be necessary to carry out the purposes of subchapter D of this chapter.

**[SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.**

[(a) The Secretary shall establish one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

[(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

[(2) determining the effectiveness of a supplement wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

[(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

[(b)(1) For purposes of this section, the term “supplemental wage allowance” means a payment that is made to an adversely affected worker who—

[(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment.

[(B) prior to such acceptance, is eligible for trade readjustment allowance under part 1 of subchapter B, and

[(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

[(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

[(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

[(B) the excess of—

[(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

[(ii) the average weekly wage in the full-time employment.

[(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

[(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

[(i) the amount of the limitation imposed under section 233(A)(1) with respect to such worker for such period, over

[(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

[(c) the Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following.

[(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

[(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

[(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

[(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

[(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

[(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

[(d) By no later than the date that is 6 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes—

[(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

[(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an option for some or all worker eligible for assistance under this chapter.

**[SEC. 245. DEFINITIONS.**

**[For purposes of this chapter—**

[(1) The term “adversely affected employment” means employment in a firm or appropriate subdivision of a firm, if workers of such firm or subdivision are eligible to apply for adjustment assistance under this chapter.

[(2) The term “adversely affected worker” means an individual who, because of lack of work in adversely affected employment

[(A) has been totally or partially separated from such employment, or

[(B) has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.

[[3) Repealed.]

[(4) The term “average weekly wage” means one-thirteenth of the total wages paid to an individual in the high quarter. For purposes of this computation, the high quarter shall be that quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately before the quarter in which occurs the week with respect to which the computation is made. Such week shall be the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

[(5) The term “average weekly hours” means the average hours worked by the individual (excluding overtime) in the employment from which he has been or claims to have been separated in the 52 weeks (excluding weeks during which the individual was sick or on vacation) preceding the week specified in the last sentence of paragraph (4).

[(6) The term “partial separation” means, with respect to an individual who has not been totally separated, that the has had—

[(A) his hours of work reduced to 80 percent less of his average weekly hours in adversely affected employment and

[(B) his wages reduced to 80 percent or less of his average weekly wage in such adversely affected employment.

[(8) The term “State” includes the District of Columbia and the Commonwealth of Puerto Rico: and the term “United States” when used in the geographical sense includes such Commonwealth.

[(9) The term “State agency” means the agency of the State which administers the State law.

[(10) The term “State law” means the unemployment insurance law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1954.

[(11) The term “total separation” means the layoff or severance of an individual from employment with a firm in which, or in a subdivision of which, adversely affected employment exists.

[(12) The term “unemployment insurance” means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act. The terms “regular compensation”, “additional compensation”, and “extended compensation” have the same respective meaning that are given them in section 205(2), (3), and (4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note.)

[(13) The term “week” means a week as defined in the applicable State law.

[(14) The term “week of unemployment” means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

[(15) The term “benefit period” means, with respect to an individual—

[(A) the benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation, or

[(B) the equivalent to such a benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.

[(16) The term “on-the-job training” means training provided by an employer to an individual who is employed by the employer.

[(17)(A) The term “job search program” means a job search workshop or job finding club.

[(B) The term “job search workshop” means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

[(C) The term “job finding club” means a job search workshop which includes a period (1 and 2 weeks) of structured supervised activity in which participants attempt to obtain jobs.

**[SEC. 248. REGULATIONS.**

[The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

**[SEC. 249. SUBPENA POWER.**

[(a) The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary for him to make a determination under the provisions of this chapter.

[(b) If a person refuses to obey a subpoena issued under subsection (a), a United States district court within the jurisdiction of which the relevant proceeding under this chapter is conducted may, upon petition by the Secretary, issue an order requiring compliance with such subpoena.

**[SEC. 249A. NONDUPLICATION OF ASSISTANCE.**

[No worker may receive assistance relating to a separation pursuant to certifications under both subchapters A and D of this chapter.

**[Subchapter D—NAFTA Transitional Adjustment Assistance Program**

**[SEC. 250. ESTABLISHMENT OF TRANSITIONAL PROGRAM.**

[(a) GROUP ELIGIBILITY REQUIREMENTS.—

[(1) CRITERIA.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified as eligible to apply for adjustment assistance under this subchapter pursuant to a petition filed under subsection (b) if the Secretary determines that a significant number or proportion of the workers in such workers’ firm of an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and either—

[(A) that—



[(i) the sales or production, or both, of such firm or subdivision have decreased absolutely,

[(ii) imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and

[(iii) the increase in imports under clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

[(B) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

[(2) DEFINITION OF CONTRIBUTED IMPORTANTLY.—The term "contributed importantly", as used in paragraph (1)(A)(iii), means a cause which is important but not necessarily more important than any other cause.

[(3) REGULATIONS.—The Secretary shall issue regulations relating to the application of the criteria described in paragraph (1) in making preliminary findings under subsection (b) and determinations under subsection (c).

[(b) PRELIMINARY FINDINGS AND BASIC ASSISTANCE.—

[(1) FILING OF PETITIONS.—A petition for certification of eligibility to apply for adjustment assistance under this subchapter may be filed by a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) or by their certified or recognized union or other duly authorized representative with the Governor of the State in which such workers' firm or subdivision thereof is located.

[(2) FILING AND ASSISTANCE.—Upon receipt of a petition under paragraph (1), the governor shall—

[(A) Notify the Secretary that the Governor has received the petition;

[(B) within 10 days after receiving the petition—

[(i) make a preliminary finding as to whether the petition meets the criteria described in subsection (a)(1) (and for purposes of this clause the criteria described under subparagraph (A)(iii) of such subsection shall be disregarded), and

[(ii) transmit the petition, together with a statement of the finding under clause (i) and reasons therefor, to the Secretary for action under subsection (c);

and

[(C) if the preliminary finding under subparagraph (B)(i) is affirmative, ensure that rapid response and basic readjustment services authorized under other Federal law are made available to the workers.

[(c) REVIEW OF PETITIONS BY SECRETARY; CERTIFICATIONS.—

[(1) IN GENERAL.—The Secretary, with 30 days after receiving a petition under subsection (b), shall determine whether the petition meets the criteria described in subsection (a)(1). Upon a determination that the petition meets such criteria, the Secretary shall issue to workers covered by the petition a cer-

tification of eligibility to apply for assistance described in subsection(d).

[(2) DENIAL OF CERTIFICATION.—Upon denial of certification with respect to a petition under paragraph (1), the Secretary shall review the petition in accordance with the requirements of subchapter A to determine if the workers may be certified under such subchapter.

[(d) COMPREHENSIVE ASSISTANCE.—Workers covered by certification issued by the Secretary under subsection (c) shall be provided, in the same manner and to the same extent as workers covered under a certification under subchapter A, the following:

[(1) Employment services described in section 235.

[(2) Training described in section 236, except that notwithstanding the provisions of section 236(a)(2)(A), the total amount of payments for training under this subchapter for the period beginning October 1, 1998, and ending September 30, 2001, shall not exceed \$30,000,000 for any fiscal year.

[(3) Trade readjustment allowances described in sections 231 through 234, except that—

[(A) the provisions of sections 231(a)(5)(C) and 231(c), authorizing the payment of trade readjustment allowances upon a finding that it is not feasible or appropriate to approve a training program for a worker, shall not be applicable to payment of such allowances under this subchapter; and

[(B) notwithstanding the provisions of section 233(b), in order for a worker to qualify for trade readjustment allowances under this subchapter, the worker shall be enrolled in a training program approved by the Secretary under section 236(a) by the later of—

[(i) the last day of the 16th week of such worker's initial unemployment compensation benefit period, or

[(ii) the last day of the 6th week after the week in which the Secretary issues a certification covering such worker.

[(In cases of extenuating circumstances relating to enrollment in a training program, the Secretary may extend the time for enrollment for a period not to exceed 30 days.

[(4) Job search allowances described in section 237.

[(5) Relocation allowances described in section 238.

[(e) ADMINISTRATION.—The provisions of subchapter C shall apply to the administration of the program under this subchapter in the same manner and to the same extent as such provisions apply to the administration of the program under subchapters A and B, except that the agreement between the Secretary and the States described in section 239 shall specify the procedures that will be used to carry out the certification process under subsection (c) and the procedures for providing relevant data by the Secretary to assist the States in making preliminary findings under subsection (b)]

**CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS**

**Subchapter A—General Provisions**

**SEC. 221. DEFINITIONS.**

*In this chapter:*

(1) **ADDITIONAL COMPENSATION.**—*The term “additional compensation” has the meaning given that term in section 205(3) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).*

(2) **ADVERSELY AFFECTED EMPLOYMENT.**—*The term “adversely affected employment” means employment in a firm or appropriate subdivision of a firm, if workers of that firm or subdivision are eligible to apply for adjustment assistance under this chapter.*

(3) **ADVERSELY AFFECTED WORKER.**—

(A) **IN GENERAL.**—*The term “adversely affected worker” means a worker who is a member of a group of workers certified by the Secretary under section 231(a)(1) as eligible for trade adjustment assistance.*

(B) **ADVERSELY AFFECTED SECONDARY WORKER.**—*The term “adversely affected worker” includes an adversely affected secondary worker who is a member of a group of workers employed at a downstream producer or a supplier, that is certified by the Secretary under section 231(a)(2) as eligible for trade adjustment assistance.*

(4) **AVERAGE WEEKLY HOURS.**—*The term “average weekly hours” means the average hours worked by a worker (excluding overtime) in the employment from which the worker has been or claims to have been separated in the 52 weeks (excluding weeks during which the worker was on leave for purposes of vacation, sickness, maternity, military service, or any other employer-authorized leave) preceding the week specified in paragraph (5)(B)(ii).*

(5) **AVERAGE WEEKLY WAGE.**—

(A) **IN GENERAL.**—*The term “average weekly wage” means  $\frac{1}{13}$  of the total wages paid to an individual in the high quarter.*

(B) **DEFINITIONS.**—*For purposes of computing the average weekly wage—*

(i) *the term “high quarter” means the quarter in which the individual’s total wages were highest among the first 4 of the last 5 completed calendar quarters immediately preceding the quarter in which occurs the week with respect to which the computation is made; and*

(ii) *the term “week” means the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.*

(6) **BENEFIT PERIOD.**—*The term “benefit period” means, with respect to an individual, the following:*

(A) **STATE LAW.**—*The benefit year and any ensuing period, as determined under applicable State law, during*

*which the individual is eligible for regular compensation, additional compensation, or extended compensation.*

(B) *FEDERAL LAW.*—*The equivalent to the benefit year or ensuing period provided for under the applicable Federal unemployment insurance law.*

(7) *BENEFIT YEAR.*—*The term “benefit year” has the same meaning given that term in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).*

(8) *CONTRIBUTED IMPORTANTLY.*—*The term “contributed importantly” means a cause that is important but not necessarily more important than any other cause.*

(9) *COOPERATING STATE.*—*The term “cooperating State” means any State that has entered into an agreement with the Secretary under section 222.*

(10) *CUSTOMIZED TRAINING.*—*The term “customized training” means training undertaken by an individual to specifications provided by and in close consultation with an employer in consideration of the employer’s commitment to hire the individual upon successful completion of the agreed training program.*

(11) *DOWNSTREAM PRODUCER.*—*The term “downstream producer” means a firm that performs additional, value-added production processes, including a firm that performs final assembly, finishing, or packaging of articles produced by another firm.*

(12) *EXTENDED COMPENSATION.*—*The term “extended compensation” has the meaning given that term in section 205(4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).*

(13) *JOB FINDING CLUB.*—*The term “job finding club” means a job search workshop which includes a period of structured, supervised activity in which participants attempt to obtain jobs.*

(14) *JOB SEARCH PROGRAM.*—*The term “job search program” means a job search workshop or job finding club.*

(15) *JOB SEARCH WORKSHOP.*—*The term “job search workshop” means a short (1- to 3-day) seminar, covering subjects such as labor market information, résumé writing, interviewing techniques, and techniques for finding job openings, that is designed to provide participants with knowledge that will enable the participants to find jobs.*

(16) *ON-THE-JOB TRAINING.*—*The term “on-the-job training” has the same meaning as that term has in section 101(31) of the Workforce Investment Act.*

(17) *PARTIAL SEPARATION.*—*A partial separation shall be considered to exist with respect to an individual if—*

(A) *the individual has had a 20-percent or greater reduction in the average weekly hours worked by that individual in adversely affected employment; and*

(B) *the individual has had a 20-percent or greater reduction in the average weekly wage of the individual with respect to adversely affected employment.*

(18) *REGULAR COMPENSATION.*—*The term “regular compensation” has the meaning given that term in section 205(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).*

(19) *SECRETARY.*—The term “Secretary” means the Secretary of Labor.

(20) *STATE.*—The term “State” includes each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(21) *STATE AGENCY.*—The term “State agency” means the agency of the State that administers the State law.

(22) *STATE LAW.*—The term “State law” means the unemployment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1986.

(23) *SUPPLIER.*—The term “supplier” means a firm that produces component parts for, or articles considered to be a part of, the production process for articles produced by a firm or subdivision covered by a certification of eligibility under section 231. The term “supplier” also includes a firm that provides services under contract to a firm or subdivision covered by such certification.

(24) *TOTAL SEPARATION.*—The term “total separation” means the layoff or severance of an individual from employment with a firm in which or in a subdivision of which, adversely affected employment exists.

(25) *UNEMPLOYMENT INSURANCE.*—The term “unemployment insurance” means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

(26) *WEEK.*—Except as provided in paragraph 5(B)(ii), the term “week” means a week as defined in the applicable State law.

(27) *WEEK OF UNEMPLOYMENT.*—The term “week of unemployment” means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

**SEC. 222. AGREEMENTS WITH STATES.**

(a) *IN GENERAL.*—The Secretary is authorized on behalf of the United States to enter into an agreement with any State or with any State agency (referred to in this chapter as “cooperating State” and “cooperating State agency”, respectively) to facilitate the provision of services under this chapter.

(b) *PROVISIONS OF AGREEMENTS.*—Under an agreement entered into under subsection (a)—

(1) the cooperating State agency as an agent of the United States shall—

(A) facilitate the early filing of petitions under section 231(b) for any group of workers that the State considers is likely to be eligible for benefits under this chapter;

(B) assist the Secretary in the review of any petition submitted from that State by verifying the information and providing other assistance as the Secretary may request;

(C) advise each worker who applies for unemployment insurance of the available benefits under this chapter and the procedures and deadlines for applying for those benefits;

(D) receive applications for services under this chapter;

- (E) provide payments on the basis provided for in this chapter;
- (F) advise each adversely affected worker to apply for training under section 240, and of the deadlines for benefits related to enrollment in training under this chapter;
- (G) ensure that the State employees with responsibility for carrying out an agreement entered into under subsection (a)—
- (i) inform adversely affected workers covered by a certification issued under section 231(c) of the workers' (and individual member's of the worker's family) potential eligibility for—
    - (I) medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.);
    - (II) child health assistance under the State children's health insurance program established under title XXI of that Act (42 U.S.C. 1397aa et seq.);
    - (III) child care services for which assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.); and
    - (IV) other Federal- and State-funded health care, child care, transportation, and assistance programs for which the workers may be eligible; and
  - (ii) provide such workers with information regarding how to apply for such assistance, services, and programs;
- (H) provide adversely affected workers referral to training services approved under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), and any other appropriate Federal or State program designed to assist dislocated workers or unemployed individuals, consistent with the requirements of subsection (b)(2);
- (I) collect and transmit to the Secretary any data as the Secretary shall reasonably require to assist the Secretary in assuring the effective and efficient performance of the programs carried out under this chapter; and
- (J) otherwise actively cooperate with the Secretary and with other Federal and State agencies in providing payments and services under this chapter, including participation in the performance measurement system established by the Secretary under section 224.
- (2) the cooperating State shall—
- (A) arrange for the provision of services under this chapter through the one-stop delivery system established in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) where available;
  - (B) provide to adversely affected workers statewide rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)) in the same manner and to the same extent as any other worker eligible for those activities;

(C) afford adversely affected workers the services provided under section 134(d) of the Workforce Investment Act of 1998 (29 U.S.C. 92864(d)) in the same manner and to the same extent as any other worker eligible for those services; and

(D) provide training services under this chapter using training providers approved under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) which may include community colleges, and other effective providers of training services.

(c) **OTHER PROVISIONS.**—

(1) **APPROVAL OF TRAINING PROVIDERS.**—The Secretary shall ensure that the training services provided by cooperating States are provided by organizations approved by the Secretary to effectively assist workers eligible for assistance under this chapter.

(2) **AMENDMENT, SUSPENSION, OR TERMINATION OF AGREEMENTS.**—Each agreement entered into under this section shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

(3) **EFFECT ON UNEMPLOYMENT INSURANCE.**—Each agreement entered into under this section shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

(4) **COORDINATION OF WORKFORCE INVESTMENT ACTIVITIES.**—In order to promote the coordination of Workforce Investment Act activities in each State with activities carried out under this chapter, each agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b) (8) and (14)).

(d) **REVIEW OF STATE DETERMINATIONS.**—

(1) **IN GENERAL.**—A determination by a cooperating State regarding entitlement to program benefits under this chapter is subject to review in the same manner and to the same extent as determinations under the applicable State law.

(2) **APPEAL.**—A review undertaken by a cooperating State under paragraph (1) may be appealed to the Secretary pursuant to such regulations as the Secretary may prescribe.

**SEC. 223. ADMINISTRATION ABSENT STATE AGREEMENT.**

(a) **IN GENERAL.**—In any State in which there is no agreement in force under section 222, the Secretary shall arrange, under regulations prescribed by the Secretary, for the performance of all necessary functions under this chapter, including providing a hearing for any worker whose application for payment is denied.

(b) **FINALITY OF DETERMINATION.**—A final determination under subsection (a) regarding entitlement to program benefits under this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

**SEC. 224. DATA COLLECTION; EVALUATIONS; REPORTS.**

(a) *DATA COLLECTION.*—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

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

(1) *PROGRAM PERFORMANCE.*—

(A) speed of petition processing;

(B) quality of petition processing;

(C) cost of training programs;

(D) coordination of programs under this title with programs under the Workforce Investment Act (29 U.S.C. 2801 et seq.);

(E) length of time participants take to enter and complete training programs;

(F) the effectiveness of individual contractors in providing appropriate retraining information;

(G) the effectiveness of individual approved training programs in helping workers obtain employment;

(H) best practices related to the provision of benefits and retraining; and

(I) other data to evaluate how individual States are implementing the requirements of this title.

(2) *PARTICIPANT OUTCOMES.*—

(A) reemployment rates;

(B) types of jobs in which displaced workers have been placed;

(C) wage and benefit maintenance results;

(D) training completion rates; and

(E) other data to evaluate how effective programs under this chapter are for participants, taking into consideration current economic conditions in the State.

(3) *PROGRAM PARTICIPATION DATA.*—

(A) the number of workers receiving benefits and the type of benefits being received;

(B) the number of workers enrolled in, and the duration of, training by major types of training;

(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

(D) the cause of dislocation identified in each certified petition; and

(E) the number of petitions filed and workers certified in each United States congressional district.

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

(1) *STATE PARTICIPATION.*—Participation by each State in the performance measurement system established under subsection (b).

(2) *MONITORING.*—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.



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

(d) *REPORTS.*—

(1) *REPORTS BY THE SECRETARY.*—

(A) *INITIAL REPORT.*—*Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—*

(i) *describes the performance measurement system established under subsection (b);*

(ii) *includes analysis of data collected through the system established under subsection (b);*

(iii) *includes information identifying the number of workers who received waivers under section 235(c) and the average duration of those during the preceding year;*

(iv) *describes and analyzes State participation in the system;*

(v) *analyzes the quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)); and*

(vi) *provides recommendations for program improvements.*

(B) *ANNUAL REPORT.*—*Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clauses (ii) through (v) of subparagraph (A).*

(2) *STATE REPORTS.*—*Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).*

(3) *PUBLICATION.*—*The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under paragraph (1).*

**SEC. 225. STUDY BY SECRETARY OF LABOR WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

(a) *NOTIFICATION OF INVESTIGATION.*—*Whenever the International Trade Commission begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of that investigation, and the Secretary shall immediately begin a study of—*

(1) *the number of workers in the domestic industry producing the like or directly competitive article who have been or are like-*

ly to be certified as eligible for adjustment assistance under this chapter; and

(2) the extent to which the adjustment of those workers to the import competition may be facilitated through the use of existing programs.

(b) **REPORT.**—

(1) **IN GENERAL.**—The Secretary shall provide a report based on the study conducted under subsection (a) to the President not later than 15 days after the day on which the Commission makes its report under section 202(f).

(2) **PUBLICATION.**—The Secretary shall promptly make public the report provided to the President under paragraph (1) (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

### **Subchapter B—Certifications**

#### **SEC. 231. CERTIFICATION AS ADVERSELY AFFECTED WORKERS.**

(a) **ELIGIBILITY FOR CERTIFICATION.**—

(1) **GENERAL RULE.**—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected workers and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that—

(A) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(B)(i)(I) the value or volume of imports of articles like or directly competitive with articles produced by that firm or subdivision have increased; and

(II) the increase in the value or volume of imports described in subclause (I) contributed importantly to the workers' separation or threat of separation; or

(ii)(I) there has been a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by that firm or subdivision; and

(II) the shift in production described in subclause (I) contributed importantly to the workers' separation or threat of separation.

(2) **ADVERSELY AFFECTED SECONDARY WORKER.**—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that—

(A) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(B) the workers' firm (or subdivision) is a supplier to a firm (or subdivision) or downstream producer to a firm (or subdivision) described in paragraph (1)(B) (i) or (ii); and

(C) a loss of business with a firm (or subdivision) described in paragraph (1)(B) (i) or (ii) contributed importantly to the workers' separation or threat of separation determined under subparagraph (A).

(3) SPECIAL PROVISIONS.—

(A) OIL AND NATURAL GAS PRODUCERS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

(B) OIL AND NATURAL GAS IMPORTS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

(C) TACONITE.—For purposes of this section, taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.

(D) SERVICE WORKERS.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary shall establish a program to provide assistance under this chapter to domestic operators of motor carriers who are adversely affected by competition from foreign owned and operated motor carriers.

(ii) DATA COLLECTION SYSTEM.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary shall put in place a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation for each worker.

(iii) REPORT.—Not later than 2 years after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary shall report to Congress the results of a study on ways for extending the programs in this chapter to adversely affected service workers, including recommendations for legislation.

(b) PETITIONS.—

(1) IN GENERAL.—A petition for certification of eligibility for trade adjustment assistance under this chapter for a group of adversely affected workers shall be filed simultaneously with the Secretary and with the Governor of the State in which the firm or subdivision of the firm employing the workers is located.

(2) *PERSONS WHO MAY FILE A PETITION.*—A petition under paragraph (1) may be filed by any of the following:

(A) *WORKERS.*—A group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

(B) *WORKER REPRESENTATIVES.*—The certified or recognized union or other duly appointed representative of the workers.

(C) *WORKER ADJUSTMENT AND RETRAINING NOTIFICATION.*—Any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102).

(D) *OTHER.*—Employers of workers described in subparagraph (A), one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. (2801)), or State employment agencies, on behalf of the workers.

(E) *REQUEST TO INITIATE CERTIFICATION.*—The President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may direct the Secretary to initiate a certification process under this chapter to determine the eligibility for trade adjustment assistance of a group of workers.

(3) *ACTIONS BY GOVERNOR.*—

(A) *COOPERATING STATE.*—Upon receipt of a petition, the Governor of a cooperating State shall ensure that the requirements of the agreement entered into under section 222 are met.

(B) *OTHER STATES.*—Upon receipt of a petition, the Governor of a State that has not entered into an agreement under section 222 shall coordinate closely with the Secretary to ensure that workers covered by a petition are—

(i) provided with all available services, including rapid response activities under section 134 of the Workforce Investment Act (29 U.S.C. 2864);

(ii) informed of the workers' (and individual member's of the worker's family) potential eligibility for—

(I) medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.);

(II) child health assistance under the State children's health insurance program established under title XXI of that Act (42 U.S.C. 1397aa et seq.);

(III) child care services for which assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.); and

(IV) other Federal and State funded health care, child care, transportation, and assistance programs that the workers may be eligible for; and

(iii) provided with information regarding how to apply for the assistance, services, and programs described in clause (ii).

(c) *ACTIONS BY SECRETARY.*—

(1) *IN GENERAL.*—As soon as possible after the date on which a petition is filed under subsection (b), but not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of subsection (a), and if warranted, shall issue a certification of eligibility for trade adjustment assistance pursuant to this subchapter. In making the determination, the Secretary shall consult with all petitioning entities.

(2) *PUBLICATION OF DETERMINATION.*—Upon making a determination under paragraph (1), the Secretary shall promptly publish a summary of the determination in the Federal Register together with the reasons for making that determination.

(3) *DATE SPECIFIED IN CERTIFICATION.*—Each certification made under this subsection shall specify the date on which the total or partial separation began or threatened to begin with respect to a group of certified workers.

(4) *PROJECTED TRAINING NEEDS.*—The Secretary shall inform the State Workforce Investment Board or equivalent agency, and other public or private agencies, institutions, employers, and labor organizations, as appropriate, of each certification issued under section 231 and of projections, if available, of the need for training under section 240 as a result of that certification.

(d) *SCOPE OF CERTIFICATION.*—

(1) *IN GENERAL.*—A certification issued under subsection (c) shall cover adversely affected workers in any group that meets the requirements of subsection (a), whose total or partial separation occurred on or after the date on which the petition was filed under subsection (b).

(2) *WORKERS SEPARATED PRIOR TO CERTIFICATION.*—A certification issued under subsection (c) shall cover adversely affected workers whose total or partial separation occurred not more than 1 year prior to the date on which the petition was filed under subsection (b).

(e) *TERMINATION OF CERTIFICATION.*—

(1) *IN GENERAL.*—If the Secretary determines, with respect to any certification of eligibility, that workers separated from a firm or subdivision covered by a certification of eligibility are no longer adversely affected workers, the Secretary shall terminate the certification.

(2) *PUBLICATION OF TERMINATION.*—The Secretary shall promptly publish notice of any termination made under paragraph (1) in the Federal Register together with the reasons for making that determination.

(3) *APPLICATION.*—Any determination made under paragraph (1) shall apply only to total or partial separations occurring after the termination date specified by the Secretary.

**SEC. 232. BENEFIT INFORMATION TO WORKERS.**

(a) *IN GENERAL.*—The Secretary shall, in accordance with the provisions of section 222 or 223, as appropriate, provide prompt and full information to adversely affected workers covered by a certification issued under section 231(c), including information regarding—

- (1) *benefit allowances, training, and other employment services available under this chapter;*
- (2) *petition and application procedures under this chapter;*
- (3) *appropriate filing dates for the allowances, training, and services available under this chapter; and*
- (4) *procedures for applying for and receiving all other Federal benefits and services available to separated workers during a period of unemployment.*

(b) **ASSISTANCE TO GROUPS OF WORKERS.—**

(1) *IN GENERAL.—The Secretary shall provide any necessary assistance to enable groups of workers to prepare petitions or applications for program benefits.*

(2) *ASSISTANCE FROM STATES.—The Secretary shall ensure that cooperating States fully comply with the agreements entered into under section 222 and shall periodically review that compliance.*

(c) **NOTICE.—**

(1) *IN GENERAL.—Not later than 15 days after a certification is issued under section 231 (or as soon as practicable after separation), the Secretary shall provide written notice of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by the certification.*

(2) *PUBLICATION OF NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under section 231 in newspapers of general circulation in the areas in which those workers reside.*

### **Subchapter C—Program Benefits**

## **PART I—GENERAL PROVISIONS**

**SEC. 234. COMPREHENSIVE ASSISTANCE.**

*Workers covered by a certification issued by the Secretary under section 231 shall be eligible for the following:*

- (1) *Trade adjustment allowances as described in sections 235 through 238.*
- (2) *Employment services as described in section 239.*
- (3) *Training as described in section 240.*
- (4) *Job search allowances as described in section 241.*
- (5) *Relocation allowances as described in section 242.*
- (6) *Supportive services and wage insurance as described in section 243.*
- (7) *Health insurance coverage options as described in title VI of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002.*

## **PART II—TRADE ADJUSTMENT ALLOWANCES**

**SEC. 235. QUALIFYING REQUIREMENTS FOR WORKERS.**

(a) *IN GENERAL.—Payment of a trade adjustment allowance shall be made to an adversely affected worker covered by a certification under section 231 who files an application for the allowance for any week of unemployment that begins more than 60 days after the date*

on which the petition that resulted in the certification was filed under section 231, if the following conditions are met:

(1) **TIME OF TOTAL OR PARTIAL SEPARATION FROM EMPLOYMENT.**—The adversely affected worker's total or partial separation before the worker's application under this chapter occurred—

(A) on or after the date, as specified in the certification under which the worker is covered, on which total or partial separation from adversely affected employment began or threatened to begin;

(B) before the expiration of the 2-year period beginning on the date on which the certification under section 231 was issued; and

(C) before the termination date (if any) determined pursuant to section 231(e).

(2) **EMPLOYMENT REQUIRED.**—

(A) **IN GENERAL.**—The adversely affected worker had, in the 52-week period ending with the week in which the total or partial separation occurred, at least 26 weeks of employment at wages of \$30 or more a week with a single firm or subdivision of a firm.

(B) **UNAVAILABILITY OF DATA.**—If data with respect to weeks of employment with a firm are not available, the worker had equivalent amounts of employment computed under regulations prescribed by the Secretary.

(C) **WEEK OF EMPLOYMENT.**—For the purposes of this paragraph any week shall be treated as a week of employment at wages of \$30 or more, if an adversely affected worker—

(i) is on employer-authorized leave for purposes of vacation, sickness, injury, or maternity, or inactive duty training or active duty for training in the Armed Forces of the United States;

(ii) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States;

(iii) had employment interrupted in order to serve as a full-time representative of a labor organization in that firm or subdivision; or

(iv) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided that active duty is "Federal service" as defined in section 8521(a)(1) of title 5, United States Code.

(D) **EXCEPTIONS.**—

(i) In the case of weeks described in clause (i) or (iii) of subparagraph (C), or both, not more than 7 weeks may be treated as weeks of employment under subparagraph (C).

(ii) In the case of weeks described in clause (ii) or (iv) of subparagraph (C), not more than 26 weeks may be treated as weeks of employment under subparagraph (C).

(3) *UNEMPLOYMENT COMPENSATION.*—*The adversely affected worker meets all of the following requirements:*

(A) *ENTITLEMENT TO UNEMPLOYMENT INSURANCE.*—*The worker was entitled to (or would be entitled to if the worker applied for) unemployment insurance for a week within the benefit period—*

- (i) *in which total or partial separation took place; or*
- (ii) *which began (or would have begun) by reason of the filing of a claim for unemployment insurance by the worker after total or partial separation.*

(B) *EXHAUSTION OF UNEMPLOYMENT INSURANCE.*—*The worker has exhausted all rights to any regular State unemployment insurance to which the worker was entitled (or would be entitled if the worker had applied for any regular State unemployment insurance).*

(C) *NO UNEXPIRED WAITING PERIOD.*—*The worker does not have an unexpired waiting period applicable to the worker for any unemployment insurance.*

(4) *EXTENDED UNEMPLOYMENT COMPENSATION.*—*The adversely affected worker, with respect to a week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act.*

(5) *TRAINING.*—*The adversely affected worker is enrolled in a training program approved by the Secretary under section 240(a), and the enrollment occurred not later than the latest of the periods described in subparagraph (A), (B), or (C).*

(A) *16 WEEKS.*—*The worker enrolled not later than the last day of the 16th week after the worker's most recent total separation that meets the requirements of paragraphs (1) and (2).*

(B) *8 WEEKS.*—*The worker enrolled not later than the last day of the 8th week after the week in which the Secretary issues a certification covering the worker.*

(C) *EXTENUATING CIRCUMSTANCES.*—*Notwithstanding subparagraphs (A) and (B), the adversely affected worker is eligible for trade adjustment assistance if the worker enrolled not later than 45 days after the later of the dates specified in subparagraph (A) or (B), and the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period.*

(b) *FAILURE TO PARTICIPATE IN TRAINING.*—

(1) *IN GENERAL.*—*Until the adversely affected worker begins or resumes participation in a training program approved under section 240(a), no trade adjustment allowance may be paid under subsection (a) to an adversely affected worker for any week or any succeeding week in which—*

(A) *the Secretary determines that—*

(i) *the adversely affected worker—*

(I) *has failed to begin participation in a training program the enrollment in which meets the requirement of subsection (a)(5); or*



(II) has ceased to participate in such a training program before completing the training program; and

(ii) there is no justifiable cause for the failure or cessation; or

(B) the waiver issued to that worker under subsection (c)(1) is revoked under subsection (c)(2).

(2) *EXCEPTION.*—The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment that begins before the first week following the week in which the certification is issued under section 231.

(c) *WAIVERS OF TRAINING REQUIREMENTS.*—

(1) *ISSUANCE OF WAIVERS.*—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a) if the Secretary determines that the training requirement is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

(A) *RECALL.*—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

(B) *MARKETABLE SKILLS.*—The worker has marketable skills as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary.

(C) *RETIREMENT.*—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefore); or

(ii) a private pension sponsored by an employer or labor organization.

(D) *HEALTH.*—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

(E) *ENROLLMENT UNAVAILABLE.*—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

(F) *DURATION.*—The duration of training appropriate for the worker to obtain suitable employment exceeds the worker's maximum entitlement to basic and additional trade adjustment allowances, and financial support available through other Federal or State programs, including chapter 5 of subtitle B of title I of the Workforce Investment Act of

1998 (29 U.S.C. 2861 *et seq.*), that would enable the worker to complete a suitable training program cannot be assured.

(G) *EMPLOYMENT AVAILABLE.*—There is employment (which may include technical and professional employment) available for the worker that offers equivalent wages to those that the worker earned prior to separation.

(H) *NO BENEFIT.*—The worker would not benefit from any training, or no training that is suitable for the worker is available at a reasonable cost.

(I) *NO REASONABLE EXPECTATION OF EMPLOYMENT.*—There is no reasonable expectation of employment following completion of the training.

(J) *TRAINING NOT AVAILABLE.*—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers).

(K) *WORKER NOT QUALIFIED.*—The worker is not qualified to undertake and complete any training.

(2) *DURATION OF WAIVERS.*—

(A) *IN GENERAL.*—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

(B) *REVOCATION.*—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker.

(3) *AMENDMENTS UNDER SECTION 222.*—

(A) *ISSUANCE BY COOPERATING STATES.*—Pursuant to an agreement under section 222, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1) (except for the determination under subparagraphs (F) and (G) of paragraph (1)).

(B) *SUBMISSION OF STATEMENTS.*—An agreement under section 222 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

(4) *REASONABLE EXPECTATION OF EMPLOYMENT.*—For purposes of applying subsection (c)(1)(I), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this section.

**SEC. 236. WEEKLY AMOUNTS.**

(a) *IN GENERAL.*—Subject to subsections (b) and (c), the trade adjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to 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 235(a)(3)(B)) reduced (but not below zero) by—

(1) any training allowance deductible under subsection (c); and

(2) any income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

(b) **ADJUSTMENT FOR WORKERS RECEIVING TRAINING.**—

(1) **IN GENERAL.**—Any adversely affected worker who is entitled to a trade adjustment allowance and who is receiving training approved by the Secretary, shall receive for each week in which the worker is undergoing that training, a trade adjustment allowance in an amount (computed for such week) equal to the greater of—

(A) the amount computed under subsection (a); or

(B) the amount of any weekly allowance for that training to which the worker would be entitled under any other Federal law for the training of workers, if the worker applied for that allowance.

(2) **ALLOWANCE PAID IN LIEU OF.**—Any trade adjustment allowance calculated under paragraph (1) shall be paid in lieu of any training allowance to which the worker would be entitled under any other Federal law.

(3) **COORDINATION WITH UNEMPLOYMENT INSURANCE.**—Any week in which a worker undergoing training approved by the Secretary receives payments from unemployment insurance shall be subtracted from the total number of weeks for which a worker may receive trade adjustment allowance under this chapter.

(c) **ADJUSTMENT FOR WORKERS RECEIVING ALLOWANCES UNDER OTHER FEDERAL LAW.**—

(1) **REDUCTION IN WEEKS FOR WHICH ALLOWANCE WILL BE PAID.**—If a training allowance under any Federal law (other than this Act) is paid to an adversely affected worker for any week of unemployment with respect to which the worker would be entitled (determined without regard to any disqualification under section 235(b)) to a trade adjustment allowance if the worker applied for that allowance, each week of unemployment shall be deducted from the total number of weeks of trade adjustment allowance otherwise payable to that worker under section 235(a) when the worker applies for a trade adjustment allowance and is determined to be entitled to the allowance.

(2) **PAYMENT OF DIFFERENCE.**—If the training allowance paid to a worker for any week of unemployment is less than the amount of the trade adjustment allowance to which the worker would be entitled if the worker applied for the trade adjustment allowance, the worker shall receive, when the worker applies for a trade adjustment allowance and is determined to be entitled to the allowance, a trade adjustment allowance for that week equal to the difference between the training allowance and the trade adjustment allowance computed under subsection (b).

**SEC. 237. LIMITATIONS ON TRADE ADJUSTMENT ALLOWANCES.**

(a) **AMOUNT PAYABLE.**—The maximum amount of trade adjustment allowance payable to an adversely affected worker, with respect to the period covered by any certification, shall be the amount that is the product of 104 multiplied by the trade adjustment allow-

ance payable to the worker for a week of total unemployment (as determined under section 236) reduced by the total sum of the regular State unemployment insurance to which the worker was entitled (or would have been entitled if the worker had applied for unemployment insurance) in the worker's first benefit period described in section 235(a)(3)(A).

(b) *DURATION OF PAYMENTS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), a trade adjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated—

(A) within the period that is described in section 235(a)(1); and

(B) with respect to which the worker meets the requirements of section 235(a)(2).

(2) *SPECIAL RULES.*—

(A) *BREAK IN TRAINING.*—For purposes of this chapter, a worker shall be treated as participating in a training program approved by the Secretary under section 240(a) during any week that is part of a break in a training that does not exceed 30 days if—

(i) the worker was participating in a training program approved under section 240(a) before the beginning of the break in training; and

(ii) the break is provided under the training program.

(B) *ON-THE-JOB TRAINING.*—No trade adjustment allowance shall be paid to a worker under this chapter for any week during which the worker is receiving on-the-job training, except that a trade adjustment allowance shall be paid if a worker is enrolled in a non-paid customized training program.

(C) *SMALL BUSINESS ADMINISTRATION PILOT PROGRAM.*—An adversely affected worker who is participating in a self-employment training program established by the Director of the Small Business Administration pursuant to section 102 of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, shall not be ineligible to receive benefits under this chapter.

(c) *ADJUSTMENT OF AMOUNTS PAYABLE.*—Amounts payable to an adversely affected worker under this chapter shall be subject to adjustment on a week-to-week basis as may be required by section 236.

(d) *YEAR-END ADJUSTMENT.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of this Act or any other provision of law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that the worker would, but for this subsection, be entitled to in that extended benefit period shall not be reduced by the number of weeks for which the worker was entitled, during that benefit year, to trade adjustment allowances under this part.

(2) *EXTENDED BENEFITS PERIOD.*—For the purpose of this section the term “extended benefit period” has the same meaning

given that term in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**SEC. 238. APPLICATION OF STATE LAWS.**

(a) *IN GENERAL.*—Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law under which an adversely affected worker is entitled to unemployment insurance (whether or not the worker has filed a claim for such insurance), or, if the worker is not so entitled to unemployment insurance, of the State in which the worker was totally or partially separated, shall apply to a worker that files an application for trade adjustment assistance.

(b) *DURATION OF APPLICABILITY.*—The State law determined to be applicable with respect to a separation of an adversely affected worker shall remain applicable for purposes of subsection (a), with respect to a separation until the worker becomes entitled to unemployment insurance under another State law (whether or not the worker has filed a claim for that insurance).

**PART III—EMPLOYMENT SERVICES, TRAINING,  
AND OTHER ALLOWANCES**

**SEC. 239. EMPLOYMENT SERVICES.**

The Secretary shall, in accordance with section 222 or 223, as applicable, make every reasonable effort to secure for adversely affected workers covered by a certification under section 231, counseling, testing, placement, and other services provided for under any other Federal law.

**SEC. 240. TRAINING.**

(a) *APPROVED TRAINING PROGRAMS.*—

(1) *IN GENERAL.*—The Secretary shall approve training programs that include—

(A) on-the-job training or customized training;

(B) any employment or training activity provided through a one-stop delivery system under chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.);

(C) any program of adult education;

(D) any training program (other than a training program described in paragraph (3)) for which all, or any portion, of the costs of training the worker are paid—

(i) under any Federal or State program other than this chapter; or

(ii) from any source other than this section; and

(E) any other training program that the Secretary determines is acceptable to meet the needs of an adversely affected worker.

In making the determination under subparagraph (E), the Secretary shall consult with interested parties.

(2) *TRAINING AGREEMENTS.*—Before approving any training to which subsection (f)(1)(C) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to

pay under subsection (b) the portion of the costs of the training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subsection (f)(1)(C).

(3) **LIMITATION ON APPROVALS.**—The Secretary shall not approve a training program if all of the following apply:

(A) **PAYMENT BY PLAN.**—Any portion of the costs of the training program are paid under any nongovernmental plan or program.

(B) **RIGHT TO OBTAIN.**—The adversely affected worker has a right to obtain training or funds for training under that plan or program.

(C) **REIMBURSEMENT.**—The plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under the training program, for any portion of the costs of that training program paid under the plan or program.

(b) **PAYMENT OF TRAINING COSTS.**—

(1) **IN GENERAL.**—Upon approval of a training program under subsection (a), and subject to the limitations imposed by this section, an adversely affected worker covered by a certification issued under section 231 may be eligible to have payment of the costs of that training, including any costs of an approved training program incurred by a worker before a certification was issued under section 231, made on behalf of the worker by the Secretary directly or through a voucher system.

(2) **ON-THE-JOB TRAINING AND CUSTOMIZED TRAINING.**—

(A) **PROVISION OF TRAINING ON THE JOB OR CUSTOMIZED TRAINING.**—If the Secretary approves training under subsection (a), the Secretary shall, insofar as possible, provide or assure the provision of that training on the job or customized training, and any training on the job or customized training that is approved by the Secretary under subsection (a) shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

(B) **MONTHLY INSTALLMENTS.**—If the Secretary approves payment of any on-the-job training or customized training under subsection (a), the Secretary shall pay the costs of that training in equal monthly installments.

(C) **LIMITATIONS.**—The Secretary may pay the costs of on-the-job training or customized training only if—

(i) no employed worker is displaced by the adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits);

(ii) the training does not impair contracts for services or collective bargaining agreements;

(iii) in the case of training that would affect a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained;

(iv) no other individual is on layoff from the same, or any substantially equivalent, job for which the adversely affected worker is being trained;

(v) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring the adversely affected worker;

(vi) the job for which the adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of employed individuals;

(vii) the training is not for the same occupation from which the worker was separated and with respect to which the worker's group was certified pursuant to section 231;

(viii) the employer certifies to the Secretary that the employer will continue to employ the worker for at least 26 weeks after completion of the training if the worker desires to continue the employment and the employer does not have due cause to terminate the employment;

(ix) the employer has not received payment under subsection (b)(1) with respect to any other on-the-job training provided by the employer or customized training that failed to meet the requirements of clauses (i) through (vi); and

(x) the employer has not taken, at any time, any action that violated the terms of any certification described in clause (viii) made by that employer with respect to any other on-the-job training provided by the employer or customized training for which the Secretary has made a payment under paragraph (1).

(c) **CERTAIN WORKERS ELIGIBLE FOR TRAINING BENEFITS.**—An adversely affected worker covered by a certification issued under section 231, who is not qualified to receive a trade adjustment allowance under section 235, may be eligible to have payment of the costs of training made under this section, if the worker enters a training program approved by the Secretary not later than 6 months after the date on which the certification that covers the worker is issued or the Secretary determines that one of the following applied:

(1) Funding was not available at the time at which the adversely affected worker was required to enter training under paragraph (1).

(2) The adversely affected worker was covered by a waiver issued under section 235(c).

(d) **EXHAUSTION OF UNEMPLOYMENT INSURANCE NOT REQUIRED.**—The Secretary may approve training, and pay the costs thereof, for any adversely affected worker who is a member of a group certified under section 231 at any time after the date on which the group is certified, without regard to whether the worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

(e) **SUPPLEMENTAL ASSISTANCE.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), when training is provided under a training program approved by the Secretary under subsection (a) in facilities that are not within commuting distance of a worker's regular place of residence, the

*Secretary may authorize supplemental assistance to defray reasonable transportation and subsistence expenses for separate maintenance.*

(2) *TRANSPORTATION EXPENSES.—The Secretary may not authorize payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.*

(3) *SUBSISTENCE EXPENSES.—The Secretary may not authorize payments for subsistence that exceed the lesser of—*

(A) *the actual per diem expenses for subsistence of the worker; or*

(B) *an amount equal to 50 percent of the prevailing per diem allowance rate authorized under Federal travel regulations.*

(f) *SPECIAL PROVISIONS; LIMITATIONS.—*

(1) *LIMITATION ON MAKING PAYMENTS.—*

(A) *DISALLOWANCE OF OTHER PAYMENT.—If the costs of training an adversely affected worker are paid by the Secretary under subsection (b), no other payment for those training costs may be made under any other provision of Federal law.*

(B) *NO PAYMENT OF REIMBURSABLE COSTS.—No payment for the costs of approved training may be made under subsection (b) if those costs—*

(i) *have already been paid under any other provision of Federal law; or*

(ii) *are reimbursable under any other provision of Federal law and a portion of those costs has already been paid under that other provision of Federal law.*

(C) *NO PAYMENT OF COSTS PAID ELSEWHERE.—The Secretary is not required to pay the costs of any training approved under subsection (a) to the extent that those costs are paid under any Federal or State program other than this chapter.*

(D) *EXCEPTION.—The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law that are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if the use of those funds has the effect of indirectly paying for or reducing any portion of the costs involved in training the adversely affected worker.*

(2) *UNEMPLOYMENT ELIGIBILITY.—A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under subsection (a), because of leaving work which is not suitable employment to enter the training, or because of the application to any week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.*

(3) *DEFINITION.—For purposes of this section the term “suitable employment” means, with respect to a worker, work of a substantially equal or higher skill level than the worker’s past*



adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

(4) **PAYMENTS AFTER REEMPLOYMENT.**—

(A) **IN GENERAL.**—In the case of an adversely affected worker who secures reemployment, the Secretary may approve and pay the costs of training (or shall continue to pay the costs of training previously approved) for that adversely affected worker, for the completion of the training program or up to 26 weeks, whichever is less, after the date the adversely affected worker becomes reemployed.

(B) **TRADE ADJUSTMENT ALLOWANCE.**—An adversely affected worker who is reemployed and is undergoing training approved by the Secretary pursuant to subparagraph (A) may continue to receive a trade adjustment allowance, subject to the income offsets provided for in the worker's State unemployment compensation law in accordance with the provisions of section 237.

(5) **FUNDING.**—The total amount of payments that may be made under this section for any fiscal year shall not exceed \$300,000,000.

**SEC. 241. JOB SEARCH ALLOWANCES.**

(a) **JOB SEARCH ALLOWANCE AUTHORIZED.**—

(1) **IN GENERAL.**—An adversely affected worker covered by a certification issued under section 231 may file an application with the Secretary for payment of a job search allowance.

(2) **APPROVAL OF APPLICATIONS.**—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

(A) **ASSIST ADVERSELY AFFECTED WORKER.**—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

(B) **LOCAL EMPLOYMENT NOT AVAILABLE.**—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) **APPLICATION.**—The worker has filed an application for the allowance with the Secretary before—

(i) the later of—

(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

(II) the 365th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 235(c).

(b) **AMOUNT OF ALLOWANCE.**—

(1) **IN GENERAL.**—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

(2) **MAXIMUM ALLOWANCE.**—Reimbursement under this subsection may not exceed \$1,200 for any worker.

(3) *ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.*—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 240(e).

(c) *EXCEPTION.*—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

**SEC. 242. RELOCATION ALLOWANCES.**

(a) *RELOCATION ALLOWANCE AUTHORIZED.*—

(1) *IN GENERAL.*—Any adversely affected worker covered by a certification issued under section 231 may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

(2) *CONDITIONS FOR GRANTING ALLOWANCE.*—A relocation allowance may be granted if all of the following terms and conditions are met:

(A) *ASSIST AN ADVERSELY AFFECTED WORKER.*—The relocation allowance will assist an adversely affected worker in relocating within the United States.

(B) *LOCAL EMPLOYMENT NOT AVAILABLE.*—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) *TOTAL SEPARATION.*—The worker is totally separated from employment at the time relocation commences.

(D) *SUITABLE EMPLOYMENT OBTAINED.*—The worker—

(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) has obtained a bona fide offer of such employment.

(E) *APPLICATION.*—The worker filed an application with the Secretary before—

(i) the later of—

(I) the 425th day after the date of the certification under section 231; or

(II) the 425th day after the date of the worker's last total separation; or

(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 235(c).

(b) *AMOUNT OF ALLOWANCE.*—The relocation allowance granted to a worker under subsection (a) includes—

(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 240(e)) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker's family, and household effects; and

(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of \$1,500.

(c) *LIMITATIONS.*—A relocation allowance may not be granted to a worker unless—

(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 240(a).

**SEC. 243. SUPPORTIVE SERVICES; WAGE INSURANCE.**

(a) *SUPPORTIVE SERVICES.*—

(1) *APPLICATION.*—

(A) *IN GENERAL.*—The State may, on behalf of any adversely affected worker or group of workers covered by a certification issued under section 231—

(i) file an application with the Secretary for services under section 173 of the Workforce Investment Act of 1998 (relating to National Emergency Grants); and

(ii) provide other services under title I of the Workforce Investment Act of 1998.

(B) *SERVICES.*—The services available under this paragraph include transportation, child care, and dependent care that are necessary to enable a worker to participate in activities authorized under this chapter.

(2) *CONDITIONS.*—The Secretary may approve an application filed under paragraph (1)(A)(i) and provide supportive services to an adversely affected worker only if the Secretary determines that all of the following apply:

(A) *NECESSITY.*—Providing services is necessary to enable the worker to participate in or complete training.

(B) *CONSISTENT WITH WORKFORCE INVESTMENT ACT.*—The services are consistent with the supportive services provided to participants under the provisions relating to displaced worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.).

(b) *WAGE INSURANCE PROGRAM.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary shall establish a Wage Insurance Program under which a State shall use the funds provided to the State for trade adjustment allowances to pay to an adversely affected worker certified under section 231 a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation for a period not to exceed 2 years.

(2) *AMOUNT OF PAYMENT.*—

(A) *WAGES UNDER \$40,000.*—If the wages the worker receives from reemployment are less than \$40,000 a year, the wage subsidy shall be 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation.

(B) *WAGES BETWEEN \$40,000 AND \$50,000.*—If the wages received by the worker from reemployment are greater than \$40,000 a year but less than \$50,000 a year, the wage subsidy shall be 25 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation.

(3) *ELIGIBILITY.*—An adversely affected worker may be eligible to receive a wage subsidy under this subsection if the worker—

(A) enrolls in the Wage Insurance Program;

(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

(C) is at least 50 years of age;

(D) earns not more than \$50,000 a year in wages from reemployment;

(E) is employed at least 30 hours a week in the reemployment; and

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

(4) *AMOUNT OF PAYMENTS.*—The payments made under paragraph (1) to an adversely affected worker may not exceed \$10,000 over the 2-year period.

(5) *LIMITATION ON OTHER BENEFITS.*—At the time a worker begins to receive a wage subsidy under this subsection the worker shall not be eligible to receive any benefits under this Act other than the wage subsidy unless the Secretary determines, pursuant to standards established by the Secretary, that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

(c) *STUDIES OF ASSISTANCE AVAILABLE TO ECONOMICALLY DISTRESSED WORKERS.*—

(1) *STUDY BY THE GENERAL ACCOUNTING OFFICE.*—

(A) *IN GENERAL.*—The Comptroller General of the United States shall conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress.

(B) *REPORT.*—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under subparagraph (A). The report shall include a description of—

(i) all Federal programs designed to assist workers facing job loss and economic distress, including all benefits and services;

(ii) eligibility requirements for each of the programs; and

(iii) procedures for applying for and receiving benefits and services under each of the programs.

(C) *DISTRIBUTION OF GAO REPORT.*—The report described in subparagraph (B) shall be distributed to all one-stop

partners authorized under the Workforce Investment Act of 1998.

(2) **STUDIES BY THE STATES.**—

(A) **IN GENERAL.**—Each State may conduct a study of its assistance programs for workers facing job loss and economic distress.

(B) **GRANTS.**—The Secretary may award to each State a grant, not to exceed \$50,000, to enable the State to conduct the study described in subparagraph (A). Each study shall be undertaken in consultation with affected parties.

(C) **REPORT.**—Not later than 1 year after the date of the grant, each State that receives a grant under subparagraph (B) shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the report described in subparagraph (A).

(D) **DISTRIBUTION OF STATE REPORTS.**—A report prepared by a State under this paragraph shall be distributed to all the one-stop partners in the State.

**Subchapter D—Payment and Enforcement Provisions**

**SEC. 244. PAYMENTS TO STATES.**

(a) **IN GENERAL.**—The Secretary, from time to time, shall certify to the Secretary of the Treasury for payment to each cooperating State, the sums necessary to enable that State as agent of the United States to make payments provided for by this chapter.

(b) **LIMITATION ON USE OF FUNDS.**—

(1) **IN GENERAL.**—All money paid to a cooperating State under this section shall be used solely for the purposes for which it is paid.

(2) **RETURN OF FUNDS NOT SO USED.**—Money paid that is not used for the purpose for which it is paid under subsection (a) shall be returned to the Secretary of the Treasury at the time specified in the agreement entered into under section 222.

(c) **SURETY BOND.**—Any agreement under section 222 may require any officer or employee of the cooperating State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in an amount the Secretary deems necessary, and may provide for the payment of the cost of that bond from funds for carrying out the purposes of this chapter.

**SEC. 245. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.**

(a) **LIABILITY OF CERTIFYING OFFICIALS.**—No person designated by the Secretary, or designated pursuant to an agreement entered into under section 222, as a certifying officer, in the absence of gross negligence or intent to defraud the United States, shall be liable with respect to any payment certified by that person under this chapter.

(b) **LIABILITY OF DISBURSING OFFICERS.**—No disbursing officer, in the absence of gross negligence or intent to defraud the United States, shall be liable with respect to any payment by that officer under this chapter if the payment was based on a voucher signed by a certifying officer designated according to subsection (a).

**SEC. 246. FRAUD AND RECOVERY OF OVERPAYMENTS.****(a) IN GENERAL.—**

(1) **OVERPAYMENT.**—If a cooperating State, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), that person shall be liable to repay that amount to the cooperating State or the Secretary, as the case may be.

(2) **EXCEPTION.**—The cooperating State or the Secretary may waive repayment if the cooperating State or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that all of the following apply:

(A) **NO FAULT.**—The payment was made without fault on the part of the person.

(B) **REPAYMENT CONTRARY TO EQUITY.**—Requiring repayment would be contrary to equity and good conscience.

**(3) PROCEDURE FOR RECOVERY.—**

(A) **RECOVERY FROM OTHER ALLOWANCES AUTHORIZED.**—Unless an overpayment is otherwise recovered or waived under paragraph (2), the cooperating State or the Secretary shall recover the overpayment by deductions from any sums payable to that person under this chapter, under any Federal unemployment compensation law administered by the cooperating State or the Secretary, or under any other Federal law administered by the cooperating State or the Secretary that provides for the payment of assistance or an allowance with respect to unemployment.

(B) **RECOVERY FROM STATE ALLOWANCES AUTHORIZED.**—Notwithstanding any other provision of Federal or State law, the Secretary may require a cooperating State to recover any overpayment under this chapter by deduction from any unemployment insurance payable to that person under State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

(b) **INELIGIBILITY FOR FURTHER PAYMENTS.**—Any person, in addition to any other penalty provided by law, shall be ineligible for any further payments under this chapter if a cooperating State, the Secretary, or a court of competent jurisdiction determines that one of the following applies:

(1) **FALSE STATEMENT.**—The person knowingly made, or caused another to make, a false statement or representation of a material fact, and as a result of the false statement or representation, the person received any payment under this chapter to which the person was not entitled.

(2) **FAILURE TO DISCLOSE.**—The person knowingly failed, or caused another to fail, to disclose a material fact, and as a result of the nondisclosure, the person received any payment under this chapter to which the person was not entitled.

(c) **HEARING.**—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a) by the cooperating State or the Secretary, as the case may be, has been made, notice of the determination and an

opportunity for a fair hearing has been given to the person concerned, and the determination has become final.

(d) *RECOVERED FUNDS.*—Any amount recovered under this section shall be returned to the Treasury of the United States.

**SEC. 247. CRIMINAL PENALTIES.**

Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for that person or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 222 shall be fined not more than \$10,000, imprisoned for not more than 1 year, or both.

**SEC. 248. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 2001, and ending September 30, 2006, such sums as may be necessary to carry out the purposes of this chapter. Amounts appropriated under this section shall remain available until expended.

**SEC. 249. REGULATIONS.**

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

**SEC. 250. SUBPOENA POWER.**

(a) *IN GENERAL.*—The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary to make a determination under the provisions of this chapter.

(b) *COURT ORDER.*—If a person refuses to obey a subpoena issued under subsection (a), a competent United States district court, upon petition by the Secretary, may issue an order requiring compliance with such subpoena.

### CHAPTER 3—ADJUSTMENT ASSISTANCE FOR FIRMS

**SEC. 251. PETITIONS AND DETERMINATIONS.**

(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary of Commerce (hereinafter in this chapter referred to as the “Secretary”) by a firm (including any agricultural firm) or its representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that he has received the petition and initiated an investigation.

(b) If the petitioner, or any other person, organization, or group found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested persons an opportunity to be present, to produce evidence, and to be heard.

(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

[(B) that—

[(i) sales or production, or both, of the firm have decreased absolutely, or

[(ii) 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 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

[(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.]

*(B) increases in value or volume of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, or*

*(C) a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by that firm or subdivision contributed importantly to the workers' separation or threat of separation.*

(2) For purposes of [paragraph (1)(C)] subparagraphs (B) and (C) of paragraph (1)—

(A) The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

\* \* \* \* \*

**SEC. 256. DELEGATION OF FUNCTIONS TO SMALL BUSINESS ADMINISTRATION; AUTHORIZATION OF APPROPRIATIONS.**

(a) In the case of any firm which is small (within the meaning of the Small Business Act and regulations promulgated thereunder), the Secretary may delegate all of his functions under this chapter (other than the functions under sections 251 and 252(d) with respect to the certification of eligibility and section 264) to the Administrator of the Small Business Administration.

[(b) There are hereby authorized to be appropriated to the Secretary for the period beginning October 1, 1998, and ending September 30, 2001 such sums as may be necessary to carry out his functions under this chapter in connection with furnishing adjustment assistance to firms (including, but not limited to, the payment of principal, interest, and reasonable costs incident to default on loans guaranteed by the Secretary under the authority of this chapter), which sums are authorized to be appropriated to remain available until expended.]

*(b) There are authorized to be appropriated to the Secretary \$16,000,000 for each of fiscal years 2002 through 2006, to carry out the Secretary's functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.*

\* \* \* \* \*

**SEC. 265. ASSISTANCE TO INDUSTRIES.**

(a) The Secretary may provide technical assistance, on such terms and conditions as the Secretary deems appropriate, for the



establishment of industrywide programs for new product development, new process development, export development, or other uses consistent with the purposes of this chapter. Such technical assistance may be provided through existing agencies, private individuals, firms, universities and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other non-profit industry organizations in which a substantial number of firms or workers have been **[certified as eligible to apply for adjustment assistance under section 223 or 251]** *certified as eligible for trade adjustment assistance benefits under section 231, or as eligible to apply for adjustment assistance under section 251.*

(b) Expenditures for technical assistance under this section may be up to \$10,000,000 annually per industry and shall be made under such terms and conditions as the Secretary deems appropriate.

#### **[CHAPTER 4—ADJUSTMENT ASSISTANCE FOR COMMUNITIES**

**[[The Adjustment Assistance for Communities program terminated on September 30, 1982]]**

#### **CHAPTER 4—COMMUNITY ECONOMIC ADJUSTMENT**

##### **SEC. 271. DEFINITIONS.**

*In this chapter:*

(1) **CIVILIAN LABOR FORCE.**—*The term “civilian labor force” has the meaning given that term in regulations prescribed by the Secretary of Labor.*

(2) **COMMUNITY.**—*The term “community” means a county or equivalent political subdivision of a State.*

(A) **RURAL COMMUNITY.**—*The term “rural community” means a community that has a rural-urban continuum code of 4 through 9.*

(B) **URBAN COMMUNITY.**—*The term “urban community” means a community that has a rural-urban continuum code of 0 through 3.*

(3) **COMMUNITY ECONOMIC DEVELOPMENT COORDINATING COMMITTEE.**—*The term “Community Economic Development Coordinating Committee” means a community group established under section 274 that consists of major groups significantly affected by an increase in imports or a shift in production, including local, regional, tribal, and State governments, regional councils of governments and economic development, and business, labor, education, health, religious, and other community-based organizations.*

(4) **DIRECTOR.**—*The term “Director” means the Director of the Office of Community Trade Adjustment.*

(5) **ELIGIBLE COMMUNITY.**—*The term “eligible community” means a community certified under section 273 as eligible for assistance under this chapter.*

(6) **JOB LOSS.**—*The term “job loss” means the total or partial separation of an individual, as those terms are defined in section 221.*

(7) *OFFICE.*—The term “Office” means the Office of Community Trade Adjustment established under section 272.

(8) *RURAL-URBAN CONTINUUM CODE.*—The term “rural-urban continuum code” means a code assigned to a community according to the rural-urban continuum code system, as defined by the Economic Research Service of the Department of Agriculture.

(9) *SECRETARY.*—The term “Secretary” means the Secretary of Commerce.

**SEC. 272. OFFICE OF COMMUNITY TRADE ADJUSTMENT.**

(a) *ESTABLISHMENT.*—Within 6 months of the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, there shall be established in the Economic Development Administration of the Department of Commerce an Office of Community Trade Adjustment.

(b) *PERSONNEL.*—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities described in this chapter.

(c) *COORDINATION OF FEDERAL RESPONSE.*—The Office shall—

(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

(2) establish an easily accessible, one-stop clearinghouse for States and eligible communities to obtain information regarding economic development assistance available under Federal law;

(3) coordinate the Federal response to an eligible community—

(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning community economic adjustment;

(D) by identifying and strengthening existing agency mechanisms designed to assist communities in economic adjustment and workforce reemployment;

(E) by applying consistent policies, practices, and procedures in the administration of Federal programs that are used to assist communities adversely impacted by an increase in imports or a shift in production;

(F) by creating, maintaining, and using a uniform economic database to analyze community adjustment activities; and

(G) by assigning a community economic adjustment advisor to work with each eligible community;

(4) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

(A) identify serious economic problems in the community that result from an increase in imports or shift in production;

- (B) integrate the major groups and organizations significantly affected by the economic adjustment;
- (C) organize a Community Economic Development Coordinating Committee;
- (D) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;
- (E) diversify and strengthen the community economy; and
- (F) develop a community-based strategic plan to address workforce dislocation and economic development;
- (5) establish specific criteria for submission and evaluation of a strategic plan submitted under section 276(d);
- (6) administer the grant programs established under sections 276 and 277; and
- (7) establish an interagency Trade Adjustment Assistance Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Defense, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, the Office of the United States Trade Representative, and the National Economic Council.

(d) **WORKING GROUP.**—The working group established under subsection (c)(7) shall examine other options for addressing trade impacts on communities, such as:

- (1) Seeking legislative language directing the Foreign Trade Zone (“FTZ”) Board to expedite consideration of FTZ applications from communities or businesses that have been found eligible for trade adjustment assistance.
- (2) Seeking legislative language to make new markets tax credits available in communities impacted by trade.
- (3) Seeking legislative language to make work opportunity tax credits available for hiring unemployed workers who are certified eligible for trade adjustment assistance.
- (4) Examining ways to assist trade impacted rural communities and industries take advantage of the Department of Agriculture’s rural development program.

**SEC. 273. NOTIFICATION AND CERTIFICATION AS AN ELIGIBLE COMMUNITY.**

(a) **NOTIFICATION.**—The Secretary of Labor, not later than 15 days after making a determination that a group of workers is eligible for trade adjustment assistance under section 231, shall notify the Governor of the State in which the community in which the worker’s firm is located and the Director, of the Secretary’s determination.

(b) **CERTIFICATION.**—Not later than 30 days after notification by the Secretary of Labor described in subsection (a), the Director shall certify as eligible for assistance under this chapter a community in which 1 of the following conditions applies:

- (1) **NUMBER OF JOB LOSSES.**—The Director shall certify that a community is eligible for assistance under this chapter if—

(A) in an urban community, at least 500 workers have been certified for assistance under section 231 in the most recent 36-month period preceding the date of certification under this section for which data are available; or

(B) in a rural community, at least 300 workers have been certified for assistance under section 231 in the most recent 36-month period preceding the date of certification under this section for which data are available.

(2) **PERCENT OF WORKFORCE UNEMPLOYED.**—The Director shall certify that a community is eligible for assistance under this chapter if the unemployment rate for the community is at least 1 percent greater than the national unemployment rate for the most recent 12-month period for which data are available.

(c) **NOTIFICATION TO ELIGIBLE COMMUNITIES.**—Not later than 15 days after the Director certifies a community as eligible under subsection (b), the Director shall notify the community—

(1) of its determination under subsection (b);

(2) of the provisions of this chapter;

(3) how to access the clearinghouse established under section 272(c)(2); and

(4) how to obtain technical assistance provided under section 272(c)(4).

**SEC. 274. COMMUNITY ECONOMIC DEVELOPMENT COORDINATING COMMITTEE.**

(a) **ESTABLISHMENT.**—In order to apply for and receive benefits under this chapter, an eligible community shall establish a Community Economic Development Coordinating Committee certified by the Director as meeting the requirements of subsection (b)(1).

(b) **COMPOSITION OF THE COMMITTEE.**—

(1) **LOCAL PARTICIPATION.**—The Community Economic Development Coordinating Committee established by an eligible community under subsection (a) shall include representatives of those groups significantly affected by economic dislocation, such as local, regional, tribal, and State governments, regional councils of governments and economic development, business, labor, education, health organizations, religious, and other community-based groups providing assistance to workers, their families, and communities.

(2) **FEDERAL PARTICIPATION.**—Pursuant to section 275(b)(3), the community economic adjustment advisor, assigned by the Director to assist an eligible community, shall serve as an ex officio member of the Community Economic Development Coordinating Committee, and shall arrange for participation by representatives of other Federal agencies on that Committee as necessary.

(3) **EXISTING ORGANIZATION.**—An eligible community may designate an existing organization in that community as the Community Economic Development Coordinating Committee if that organization meets the requirements of paragraph (1) for the purposes of this chapter.

(c) **DUTIES.**—The Community Economic Development Coordinating Committee shall—

(1) ascertain the severity of the community economic adjustment required as a result of the increase in imports or shift in production;

(2) assess the capacity of the community to respond to the required economic adjustment and the needs of the community as it undertakes economic adjustment, taking into consideration such factors as the number of jobs lost, the size of the community, the diversity of industries, the skills of the labor force, the condition of the current labor market, the availability of financial resources, the quality and availability of educational facilities, the adequacy and availability of public services, and the existence of a basic and advanced infrastructure in the community;

(3) facilitate a dialogue between concerned interests in the community, represent the impacted community, and ensure all interests in the community work collaboratively toward collective goals without duplication of effort or resources;

(4) oversee the development of a strategic plan for community economic development, taking into consideration the factors mentioned under paragraph (2), and consistent with the criteria established by the Secretary for the strategic plan developed under section 276;

(5) create an executive council of members of the Community Economic Development Coordinating Committee to promote the strategic plan within the community and ensure coordination and cooperation among all stakeholders; and

(6) apply for any grant, loan, or loan guarantee available under Federal law to develop or implement the strategic plan, and be an eligible recipient for funding for economic adjustment for that community.

**SEC. 275. COMMUNITY ECONOMIC ADJUSTMENT ADVISORS.**

(a) *IN GENERAL.*—Pursuant to section 272(c)(3)(G), the Director shall assign a community economic adjustment advisor to each eligible community.

(b) *DUTIES.*—The community economic adjustment advisor shall—

(1) provide technical assistance to the eligible community, assist in the development and implementation of a strategic plan, including applying for any grant available under this or any other Federal law to develop or implement that plan;

(2) at the local and regional level, coordinate the response of all Federal agencies offering assistance to the eligible community;

(3) serve as an *ex officio* member of the Community Economic Development Coordinating Committee established by an eligible community under section 274;

(4) act as liaison between the Community Economic Development Coordinating Committee established by the eligible community and all other Federal agencies that offer assistance to eligible communities, including the Department of Agriculture, the Department of Defense, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the

*Treasury, the National Economic Council, and other offices or agencies of the Department of Commerce;*

*(5) report regularly to the Director regarding the progress of development activities in the community to which the community economic adjustment advisor is assigned; and*

*(6) perform other duties as directed by the Secretary or the Director.*

**SEC. 276. STRATEGIC PLANS.**

*(a) IN GENERAL.—With the assistance of the community economic adjustment advisor, an eligible community may develop a strategic plan for community economic adjustment and diversification.*

*(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:*

*(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used, the anticipated management structure of the Community Economic Development Coordinating Committee, and the commitment of the community to the strategic plan over the long term.*

*(2) A description of, and a plan to accomplish, the projects to be undertaken by the eligible community.*

*(3) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.*

*(4) A description of any alternative development plans that were considered, particularly less costly alternatives, and why those plans were rejected in favor of the proposed plan.*

*(5) A description of any additional steps the eligible community will take to achieve economic adjustment and diversification, including how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.*

*(6) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.*

*(7) A description of the occupational and workforce conditions in the eligible community, including but not limited to existing levels of workforce skills and competencies, and educational programs available for workforce training and future employment needs.*

*(8) A description of how the plan will adapt to changing markets, business cycles, and other variables.*

*(9) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.*

**(c) GRANTS TO DEVELOP STRATEGIC PLANS.—**

*(1) IN GENERAL.—The Director, upon receipt of an application from a Community Economic Development Coordinating Committee on behalf of an eligible community, shall award a grant to that community to be used to develop the strategic plan.*

*(2) AMOUNT.—The amount of a grant made under paragraph (1) shall be determined by the Secretary, but may not exceed \$50,000 to each community.*

(3) *LIMIT.*—Each community can only receive 1 grant under this subsection for the purpose of developing a strategic plan in any 5-year period.

(d) *SUBMISSION OF PLAN.*—A strategic plan developed under subsection (a) shall be submitted to the Director for evaluation and approval.

**SEC. 277. GRANTS FOR ECONOMIC DEVELOPMENT.**

The Director, upon receipt of an application from the Community Economic Development Coordinating Committee on behalf of an eligible community, may award a grant to that community to carry out any project or program included in the strategic plan approved under section 276(d) that—

(1) will be located in, or will create or preserve high-wage jobs, in that eligible community; and

(2) implements the strategy of that eligible community to create high-wage jobs in sectors that are expected to expand, including projects that—

(A) encourage industries to locate in that eligible community, if such funds are not used to encourage the relocation of any employer in a manner that causes the dislocation of employees of that employer at another facility in the United States;

(B) leverage resources to create or improve Internet or telecommunications capabilities to make the community more attractive for business;

(C) establish a funding pool for job creation through entrepreneurial activities;

(D) assist existing firms in that community to restructure or retool to become more competitive in world markets and prevent job loss; or

(E) assist the community in acquiring the resources and providing the level of public services necessary to meet the objectives set out in the strategic plan.

**SEC. 278. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Commerce, for the period beginning October 1, 2001, and ending September 30, 2006, such sums as may be necessary to carry out the purposes of this chapter.

**SEC. 279. GENERAL PROVISIONS.**

(a) *REPORT BY THE DIRECTOR.*—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, and annually thereafter, the Director shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding the programs established under this title.

(b) *REGULATIONS.*—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter.

(c) *SUPPLEMENT NOT SUPPLANT.*—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.

## CHAPTER 5—MISCELLANEOUS PROVISIONS

### SEC. 280. GENERAL ACCOUNTING OFFICE REPORT.

(a) The Comptroller General of the United States shall conduct a study of the adjustment assistance programs established under chapters 2, 3, and 4 of this title and shall report the results of such study to the Congress no later than **[January 31, 1980]** *January 31, 2004*. Such report shall include an evaluation of—

\* \* \* \* \*

### SEC. 284. JUDICIAL REVIEW.

(a) A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor **[under section 223 or section 250(c) of this title, a firm or its representative or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251 of this title, or a community or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 271]** *under section 231, a firm or its representative, or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251, an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 293, a producer (as defined in section 299(2)) aggrieved by a determination of the Secretary of Commerce under section 299B, or a community or any other interested domestic party aggrieved by a final determination of the Director of the Office of Community Trade Adjustment under section 273*”.

\* \* \* \* \*

### **[SEC. 285. TERMINATION.**

**[(a) Chapter 4 shall terminate on September 30, 1982.**

**[(b) No duty shall be imposed under section 287, after September 30, 1993.**

**[(c)(1) Except as provided in paragraph (2), no assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 2001.**

**[(2)(A) Except as provided in subparagraph (B), no assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after September 30, 2001.**

**[(B) Notwithstanding subparagraph (A), if, on or before the day described in subparagraph (A), a worker—**

**[(i) is certified as eligible to apply for assistance, under subchapter D of chapter 2; and**

**[(ii) is otherwise eligible to receive assistance in accordance with section 250,**

**such worker shall continue to be eligible to receive such assistance for any week for which the worker meets the eligibility requirements of such section.]**

### **SEC. 285. TERMINATION.**

*(a) ASSISTANCE FOR WORKERS.—*



(1) *IN GENERAL.*—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2006.

(2) *EXCEPTION.*—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2006, the worker is—

(A) certified as eligible for trade adjustment assistance benefits under section 231; and

(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

(b) *OTHER ASSISTANCE.*—

(1) *ASSISTANCE FOR FIRMS.*—Technical assistance may not be provided under chapter 3 after September 30, 2006.

(2) *ASSISTANCE FOR COMMUNITIES.*—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2006.

(3) *ASSISTANCE FOR FARMERS AND FISHERMEN.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 or 7 after September 30, 2006.

(B) *EXCEPTION.*—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2)) or producer (as defined in section 299(2)), shall continue to receive adjustment assistance benefits and other benefits under chapter 6 or 7, whichever applies, for any week for which the agricultural commodity producer or producer meets the eligibility requirements of chapter 6 or 7, whichever applies, if on or before September 30, 2006, the agricultural commodity producer or producer is—

(i) certified as eligible for adjustment assistance benefits under chapter 6 or 7, whichever applies; and

(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6 or 7.

## **CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS**

### **SEC. 291. DEFINITIONS.**

*In this chapter:*

(1) *AGRICULTURAL COMMODITY.*—The term “agricultural commodity” means any agricultural commodity (including livestock), except fish as defined in section 299(1) of this Act, in its raw or natural state.

(2) *AGRICULTURAL COMMODITY PRODUCER.*—The term “agricultural commodity producer” means any person who is engaged in the production and sale of an agricultural commodity in the United States and who owns or shares the ownership and risk of loss of the agricultural commodity, except any person described in section 299(2) of this Act.

(3) *CONTRIBUTED IMPORTANTLY.*—

(A) *IN GENERAL.*—The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(B) *DETERMINATION OF CONTRIBUTED IMPORTANTLY.*—The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

(4) *DULY AUTHORIZED REPRESENTATIVE.*—The term “duly authorized representative” means an association of agricultural commodity producers.

(5) *NATIONAL AVERAGE PRICE.*—The term “national average price” means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

(6) *SECRETARY.*—The term “Secretary” means the Secretary of Agriculture.

**SEC. 292. PETITIONS; GROUP ELIGIBILITY.**

(a) *IN GENERAL.*—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) *HEARINGS.*—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(c) *GROUP ELIGIBILITY REQUIREMENTS.*—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for the 5 marketing years preceding the most recent marketing year; and

(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

(d) *SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.*—A group of agricultural commodity producers certified as eligible under section 293 shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

(2) the requirements of subsection (c)(2) are met.

(e) **DETERMINATION OF QUALIFIED YEAR AND COMMODITY.**—In this chapter:

(1) **QUALIFIED YEAR.**—The term “qualified year”, with respect to a group of agricultural commodity producers certified as eligible under section 293, means each consecutive year after the year in which the group is certified that the Secretary makes the determination under subsection (c) or (d), as the case may be.

(2) **CLASSES OF GOODS WITHIN A COMMODITY.**—In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 296.

**SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.**

(a) **IN GENERAL.**—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 292 (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

(b) **NOTICE.**—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary’s reasons for making the determination.

(c) **TERMINATION OF CERTIFICATION.**—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary’s reasons for making such determination.

**SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

(a) **IN GENERAL.**—Whenever the International Trade Commission (in this chapter referred to as the “Commission”) begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity

*who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and*

*(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.*

*(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study under subsection (a). Upon making his report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.*

**SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS.**

*(a) IN GENERAL.—The Secretary shall provide full information to producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.*

*(b) NOTICE OF BENEFITS.—*

*(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this chapter.*

*(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to agricultural commodity producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.*

*(3) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.*

**SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS.**

*(a) IN GENERAL.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293, if the following conditions are met:*

*(1) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under subsection (a) that was produced by the producer in the most recent year.*

*(2) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.*

*(3) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net*

farm income for the latest year in which no adjustment assistance was received by the producer under this chapter.

(4) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

(A) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

(B) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

(b) AMOUNT OF CASH BENEFITS.—

(1) IN GENERAL.—Subject to the provisions of section 298, an adversely affected agricultural commodity producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

(A) one-half of the difference between—

(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year, and

(ii) the national average price of the agricultural commodity for the most recent marketing year, and

(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed \$10,000.

(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive a cash benefit under this chapter—

(1) shall not be eligible for any other cash benefit under this title, and

(2) shall be entitled to employment services and training benefits under part III of subchapter C of chapter 2.

**SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.**

(a) IN GENERAL.—

(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if

*the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—*

*(A) the payment was made without fault on the part of such person; and*

*(B) requiring such repayment would be contrary to equity and good conscience.*

*(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.*

*(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—*

*(1) if the Secretary, or a court of competent jurisdiction, determines that the person—*

*(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or*

*(B) knowingly has failed, or caused another to fail, to disclose a material fact; and*

*(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.*

*(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.*

*(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.*

*(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.*

**SEC. 298. AUTHORIZATION OF APPROPRIATIONS.**

*(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed \$90,000,000 for each of the fiscal years 2002 through 2006 to carry out the purposes of this chapter.*

*(b) PROPORTIONATE REDUCTION.—If in any year, the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.*

**CHAPTER 7—ADJUSTMENT ASSISTANCE FOR FISHERMEN**

**SEC. 299. DEFINITIONS.**

*In this chapter:*

(1) *COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.*—The terms “commercial fishing”, “fish”, “fishery”, “fishing”, “fishing vessel”, “person”, and “United States fish processor” have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(2) *PRODUCER.*—The term “producer” means any person who—

(A) is engaged in commercial fishing; or

(B) is a United States fish processor.

(3) *CONTRIBUTED IMPORTANTLY.*—

(A) *IN GENERAL.*—The term “contributed importantly” means a cause which is important but not necessarily more important than any other cause.

(B) *DETERMINATION OF CONTRIBUTED IMPORTANTLY.*—The determination of whether imports of articles like or directly competitive with a fish caught through commercial fishing or processed by a United States fish processor with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the fish shall be made by the Secretary.

(4) *DULY AUTHORIZED REPRESENTATIVE.*—The term “duly authorized representative” means an association of producers.

(5) *NATIONAL AVERAGE PRICE.*—The term “national average price” means the national average price paid to a producer for fish in a marketing year as determined by the Secretary.

(6) *SECRETARY.*—The term “Secretary” means the Secretary of Commerce.

(7) *TRADE ADJUSTMENT ASSISTANCE CENTER.*—The term “Trade Adjustment Assistance Center” shall have the same meaning as such term has in section 253.

**SEC. 299A. PETITIONS; GROUP ELIGIBILITY.**

(a) *IN GENERAL.*—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

(b) *HEARINGS.*—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

(c) *GROUP ELIGIBILITY REQUIREMENTS.*—The Secretary shall certify a group of producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

(1) that the national average price for the fish, or a class of fish, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such fish, or such class of fish, for the 5 marketing years preceding the most recent marketing year; and

(2) that increases in imports of articles like or directly competitive with the fish, or class of fish, produced by the group contributed importantly to the decline in price described in paragraph (1).

(d) **SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.**—A group of producers certified as eligible under section 299B shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

(1) the national average price for the fish, or class of fish, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

(2) the requirements of subsection (c)(2) are met.

(e) **DETERMINATION OF QUALIFIED YEAR AND COMMODITY.**—In this chapter:

(1) **QUALIFIED YEAR.**—The term “qualified year”, with respect to a group of producers certified as eligible under section 299B, means each consecutive year after the year in which the group is certified that the Secretary makes the determination under subsection (c) or (d), as the case may be.

(2) **CLASSES OF GOODS WITHIN A COMMODITY.**—In any case in which there are separate classes of fish, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 299E.

**SEC. 299B. DETERMINATIONS BY SECRETARY.**

(a) **IN GENERAL.**—As soon as practicable after the date on which a petition is filed under section 299A, but in any event not later than 60 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 299A (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

(b) **NOTICE.**—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary’s reasons for making the determination.

(c) **TERMINATION OF CERTIFICATION.**—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the fish covered by the certification is no longer attributable to the conditions described in section 299A, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary’s reasons for making such determination.

**SEC. 299C. STUDY BY SECRETARY WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

(a) **IN GENERAL.**—Whenever the International Trade Commission (in this chapter referred to as the “Commission”) begins an investigation under section 202 with respect to a fish, the Commission



shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

(1) the number of producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

(b) *REPORT.*—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study under subsection (a). Upon making his report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

**SEC. 299D. BENEFIT INFORMATION TO PRODUCERS.**

(a) *IN GENERAL.*—The Secretary shall provide full information to producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

(b) *NOTICE OF BENEFITS.*—

(1) *IN GENERAL.*—The Secretary shall mail written notice of the benefits available under this chapter to each producer that the Secretary has reason to believe is covered by a certification made under this chapter.

(2) *OTHER NOTICE.*—The Secretary shall publish notice of the benefits available under this chapter to producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

**SEC. 299E. QUALIFYING REQUIREMENTS FOR PRODUCERS.**

(a) *IN GENERAL.*—Payment of a trade adjustment allowance shall be made to an adversely affected producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 299B, if the following conditions are met:

(1) The producer submits to the Secretary sufficient information to establish the amount of fish covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

(2) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

(3) The producer's net fishing or processing income (as determined by the Secretary) for the most recent year is less than the producer's net fishing or processing income for the latest year

*in which no adjustment assistance was received by the producer under this chapter.*

*(4) The producer certifies that—*

*(A) the producer has met with an employee or agent from a Trade Adjustment Assistance Center to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected fish, including—*

*(i) information regarding the feasibility and desirability of substituting 1 or more alternative fish for the adversely affected fish; and*

*(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected fish by the producer, including yield and marketing improvements; and*

*(B) none of the benefits will be used to purchase, lease, or finance any new fishing vessel, add capacity to any fishery, or otherwise add to the overcapitalization of any fishery.*

*(b) AMOUNT OF CASH BENEFITS.—*

*(1) IN GENERAL.—Subject to the provisions of section 299G, an adversely affected producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—*

*(A) one-half of the difference between—*

*(i) an amount equal to 80 percent of the average of the national average price of the fish covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year; and*

*(ii) the national average price of the fish for the most recent marketing year; and*

*(B) the amount of the fish produced by the producer in the most recent marketing year.*

*(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the fish shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification. A producer shall only be eligible for benefits for subsequent qualified years if the Secretary or his designee determines that sufficient progress has been made implementing the plans developed under section 299E(a)(4) of this title.*

*(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits a producer may receive in any 12-month period shall not exceed \$10,000.*

*(d) LIMITATIONS ON OTHER ASSISTANCE.—A producer entitled to receive a cash benefit under this chapter—*

*(1) shall not be eligible for any other cash benefit under this title, and*

*(2) shall be entitled to employment services and training benefits under part III of subchapter C of chapter 2.*

**SEC. 299F. FRAUD AND RECOVERY OF OVERPAYMENTS.****(a) IN GENERAL.—**

(1) **REPAYMENT.**—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

(A) the payment was made without fault on the part of such person; and

(B) requiring such repayment would be contrary to equity and good conscience.

(2) **RECOVERY OF OVERPAYMENT.**—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

(b) **FALSE STATEMENT.**—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

(c) **NOTICE AND DETERMINATION.**—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

(d) **PAYMENT TO TREASURY.**—Any amount recovered under this section shall be returned to the Treasury of the United States.

(e) **PENALTIES.**—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

**SEC. 299G. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—There are authorized to be appropriated and there are appropriated to the Department of Commerce not to exceed \$10,000,000 for each of the fiscal years 2002 through 2006 to carry out the purposes of this chapter.

(b) **PROPORTIONATE REDUCTION.**—If in any year, the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.

TARIFF ACT OF 1930

\* \* \* \* \*

TITLE III—SPECIAL PROVISIONS

\* \* \* \* \*

PART II—UNITED STATES TARIFF COMMISSION

\* \* \* \* \*

SEC. 318. EMERGENCIES.

(a) Whenever the President shall by proclamation declare an emergency to exist by reason of a state of war, or otherwise, he may authorize the Secretary of the Treasury to extend during the continuance of such emergency the time herein prescribed for the performance of any act, and may authorize the Secretary of the Treasury to permit, under such regulations as the Secretary of the Treasury may prescribe, the importation free of duty of food, clothing, and medical, surgical, and other supplies for use in emergency relief work. The Secretary of the Treasury shall report to the Congress any action taken under the provisions of this section.

(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

(C) Take any other action that may be necessary to directly respond to the national emergency or specific threat.

(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).

\* \* \* \* \*

SEC. 330. ORGANIZATION OF THE COMMISSION.

(a) \* \* \*

\* \* \* \* \*

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) \* \* \*

(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

[(i) \$41,170,000 for fiscal year 1991.

[(ii) \$44,052,000 for fiscal year 1992.]

(i) \$51,400,000 for fiscal year 2002.

(ii) \$53,400,000 for fiscal year 2003.

\* \* \* \* \*

(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.

\* \* \* \* \*

### TITLE IV—ADMINISTRATIVE PROVISIONS

#### PART I—DEFINITIONS AND NATIONAL CUSTOMS AUTOMATION PROGRAM

##### Subpart A—Definitions

\* \* \* \* \*

#### SEC. 401. MISCELLANEOUS.

When used in this title or in Part I of Title III—

(a) \* \* \*

\* \* \* \* \*

(t) The term “land, air, or vessel carrier” means a land, air, or vessel carrier, as the case may be, that transport goods or passengers for payment or other consideration, including money or services rendered.

\* \* \* \* \*

#### PART II—REPORT, ENTRY, AND UNLOADING OF VESSELS AND VEHICLES

#### SEC. 431. MANIFEST—REQUIREMENT, FORM, AND CONTENTS.

(a) \* \* \*

(b) PRODUCTION OF MANIFEST.—(1) Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle, or by any other authorized agent of the owner or operator of the vessel, aircraft, or vehicle in accordance with the requirements prescribed under subsection (d). A manifest may be supplemented by bill of lading data supplied by the issuer of such bill. If any irregularity of omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle, or any party responsible for such irregularity, shall be liable for any fine or penalty prescribed by law with respect to such irregularity. The Customs Service may take appropriate action against any of the parties.

(2) In addition to any other requirement under this section, for each land, air, or vessel carrier required to make entry or obtain

*clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission cargo manifest information in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary. The Secretary may exclude any class of land, air, or vessel carrier for which the Secretary concludes the requirements of this subparagraph are not necessary.*

\* \* \* \* \*

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall by regulation—

(A) specify the form for, and the information and data that must be contained in, the manifest required by subsection (a) or subsection (b)(2); and

\* \* \* \* \*

(C) prescribe the manner of production for, and the delivery of electronic transmittal of the manifest required by subsection (a) or subsection (b)(2); and

\* \* \* \* \*

**SEC. 432. PASSENGER AND CREW MANIFEST INFORMATION REQUIRED FOR LAND, AIR, OR VESSEL CARRIERS.**

(a) *IN GENERAL.*—For every person carrying or departing on a land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission manifest information described in subsection (b) in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary.

(b) *INFORMATION DESCRIBED.*—The information described in this subsection shall include for each person described in subsection (a), the person’s—

- (1) full name;
- (2) date of birth and citizenship;
- (3) gender;
- (4) passport number and country of issuance;
- (5) United States visa number or resident alien card number, as applicable;
- (6) passenger name record; and
- (7) such additional information that the Secretary, by regulation, determines is reasonably necessary to ensure aviation and maritime safety pursuant to the laws enforced or administered by the Customs Service.

\* \* \* \* \*

**SEC. 509. EXAMINATION OF BOOKS AND WITNESSES.**

(a) \* \* \*

(b) REGULATORY AUDIT PROCEDURES.—

(1) \* \* \*

\* \* \* \* \*

(6)(A) *If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of du-*

*ties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.*

*(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.*

\* \* \* \* \*

**SEC. 583. EXAMINATION OF OUTBOUND MAIL.**

(a) *EXAMINATION.*—

(1) *IN GENERAL.*—*For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.*

(2) *PROVISIONS OF LAW DESCRIBED.*—*The provisions of law described in this paragraph are the following:*

(A) *Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).*

(B) *Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).*

(C) *Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).*

(D) *The Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).*

(E) *Section 38 of the Arms Export Control Act (22 U.S.C. 2778).*

(F) *The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).*

(b) *SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.*—*Mail not sealed against inspection under the postal laws and regulation of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search by a Customs officer.*

(c) *SEARCH OF MAIL SEALED AGAINST INSPECTION.*—(1) *Mail sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:*

(A) *Monetary instruments, as defined in section 1956 of title 18, United States Code.*

(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. app. 2401 et seq.).

(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. app. 1 et seq.).

(K) Merchandise subject to any other law enforced by the Customs Service.

(2) No person acting under authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

(A) a search warrant has been issued pursuant to Rule 41, Federal Rules of Criminal Procedure; or

(B) the sender or addressee has given written authorization for such reading.

\* \* \* \* \*

**HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

\* \* \* \* \*

**CHAPTER 98—SPECIAL CLASSIFICATION PROVISIONS**

\* \* \* \* \*

**Subchapter IV—Personal Exemptions Extended to Residents and Nonresidents**

\* \* \* \* \*



Heading/Sub-heading	Article Description	Rates of Duty		
		1		2
		General	Special	
9804.00.65	Articles, accompanying a person, not over <b>[\$400]</b> \$800 in aggregate fair retail value in the country of acquisition, including (but only in the case of an individual who has attained the age of 21) not more than 1 liter of alcoholic beverages and including not more than 200 cigarettes and 100 cigars.	.....	Free .....	Free
		*	*	*

## CUSTOMS PROCEDURAL REFORM AND SIMPLIFICATION ACT OF 1978

\* \* \* \* \*

SEC. 301. (a)(1) \* \* \*

\* \* \* \* \*

(3) *By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).*

(b) **AUTHORIZATION OF APPROPRIATIONS.—**

(1) **FOR NONCOMMERCIAL OPERATIONS.—**There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

- [(A) \$516,217,000 for fiscal year 1991.
- [(B) \$542,091,000 for fiscal year 1992.]
- (A) \$886,513,000 for fiscal year 2002.
- (B) \$909,471,000 for fiscal year 2003.

(2) **FOR COMMERCIAL OPERATIONS.—**(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

- [(i) \$672,021,000 for fiscal year 1991.
- [(ii) \$705,793,000 for fiscal year 1992.]
- (i) \$1,603,482,000 for fiscal year 2002.
- (ii) \$1,645,009,000 for fiscal year 2003.

\* \* \* \* \*

(3) **FOR AIR INTERDICTION.—**There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

- [(A) \$143,047,000 for fiscal year 1991.

[(B) \$150,199,000 for fiscal year 1992.]  
(A) \$181,860,000 for fiscal year 2002.  
(B) \$186,570,000 for fiscal year 2003.

\* \* \* \* \*

**FOOD STAMP ACT OF 1977**

\* \* \* \* \*

**SEC. 6. ELIGIBILITY DISQUALIFICATIONS.**

\* \* \* \* \*

(o) WORK REQUIREMENT.—

(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term “work program” means—

- (A) a program under [the] title I of the Workforce Investment Act of 1998;
- (B) a program under [section 236] *section 240* of the Trade Act of 1974 and

\* \* \* \* \*

**INTERNAL REVENUE CODE OF 1986**

\* \* \* \* \*

**SEC. 62. ADJUSTED GROSS INCOME DEFINED.**

(a) GENERAL RULE.—

\* \* \* \* \*

(12) CERTAIN REQUIRED REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of [trade readjustment allowances under section 231 or 232] *trade adjustment allowances under section 235 or 236* of the Trade Act of 1974 (19 U.S.C. 2291 and 2292).

\* \* \* \* \*

**SEC. 3304. APPROVAL OF STATE LAWS.**

(a) REQUIREMENTS.—

\* \* \* \* \*

[(8) compensation shall not be denied to an individual for any week because he is in training with the approval of the State agency (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);]

*(8) compensation shall not be denied to an individual for any week because the individual is in training with the approval of the State agency, or in training approved by the Secretary of Labor pursuant to chapter 2 of title II of the Trade Act of 1974 (or because of the application, to any such week in training, of*

*State law provisions relating to availability for work, active search for work, or refusal to accept work);*

\* \* \* \* \*

**UNITED STATES CODE**

\* \* \* \* \*

**TITLE 28.—JUDICIARY AND JUDICIAL PROCEDURE**

**PART IV—JURISDICTION AND VENUE**

**CHAPTER 95—COURT OF INTERNATIONAL TRADE**

**§ 1581. Civil actions against the United States and agencies and officers thereof**

(a) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930.

\* \* \* \* \*

(d) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

(1) any final determination of the Secretary of Labor under [section 223] section 231 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act;

(2) any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act; and

(3) any final determination of the Secretary of Commerce under [section 271] section 273 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act.

\* \* \* \* \*

**§ 2631. Persons entitled to commence a civil action**

(a) A civil action contesting the denial of a protest in whole or in part, under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest pursuant to section 514 of such Act, or by a surety on the transaction which is the subject of the protest.

\* \* \* \* \*

[(d)(1) A civil action to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 [19 USCS § 2273] with respect to the eligibility of workers for adjustment assistance under such Act may be commenced in the Court of International Trade by a worker, group of workers, certified or

recognized union, or authorized representative of such worker or group that applies for assistance under such Act and is aggrieved by such final determination.】

*(d)(1) A civil action to review any final determination of the Secretary of Labor under section 231 of the Trade Act of 1974 with respect to the certification of workers as adversely affected and eligible for trade adjustment assistance under that Act may be commenced by a worker, a group of workers, a certified or recognized union, or an authorized representative of such worker or group, that petitions for certification under that Act and is aggrieved by the final determination.*

(2) A civil action to review any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act may be commenced in the Court of International Trade by a firm or its representative that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

(3) A civil action to review any final determination of the [Secretary of Commerce under section 271] *Director of the Office of Community Trade Adjustment under section 273* of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act may be commenced in the Court of International Trade by a community that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

\* \* \* \* \*

**§ 2636. Time for commencement of action**

\* \* \* \* \*

(d) A civil action contesting a final determination of the Secretary of Labor [under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act] *under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, or a final determination of the Director of the Office of Community Trade Adjustment under section 273 of that Act* is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of notice of such determination.

\* \* \* \* \*

**§ 2640. Scope and standard of review**

\* \* \* \* \*

(c) In any civil action commenced in the Court of International Trade to review any final determination of the Secretary of Labor [under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act] *under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, or a final determination of the Director of the Office of Commu-*

*nity Trade Adjustment under section 273 of that Act* the court shall review the matter as specified in section 284 of such act.

\* \* \* \* \*

**§ 2643. Relief**

\* \* \* \* \*

(c)(1) Except as provided in paragraphs (2), (3), (4), and (5) of this subsection, the Court of International Trade may, in addition to the orders specified in subsections (a) and (b) of this section, order any other form of relief that is appropriate in a civil action, including, but not limited to, declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.

(2) The Court of International Trade may not grant an injunction or issue a writ of mandamus in any civil action commenced to review any final determination of the Secretary of Labor [under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act] *under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, or a final determination of the Director of the Office of Community Trade Adjustment under section 273 of that Act.*

\* \* \* \* \*

