

108TH CONGRESS
2D SESSION

H. R. 3881

To amend the Trade Act of 1974 to extend the trade adjustment assistance program to the service sector, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2004

Mr. SMITH of Washington (for himself, Mr. HOLDEN, Mr. INSLEE, Mr. RANGEL, Mr. LEVIN, Mr. MATSUI, Mr. STARK, Mr. CARDIN, Mr. McDERMOTT, Mr. McNULTY, Mr. BECERRA, Mrs. JONES of Ohio, Mr. SPRATT, Mr. GEORGE MILLER of California, Mr. DICKS, Mr. BAIRD, Mr. LARSEN of Washington, and Ms. SLAUGHTER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Trade Act of 1974 to extend the trade adjustment assistance program to the service sector, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Adjustment As-
5 sistance Equity For Service Workers Act of 2004”.

1 **SEC. 2. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE**
 2 **TO SERVICES SECTOR.**

3 (a) ADJUSTMENT ASSISTANCE FOR WORKERS.—Sec-
 4 tion 221(a)(1)(A) of the Trade Act of 1974 (19 U.S.C.
 5 2271(a)(1)(A)) is amended by striking “firm)” and insert-
 6 ing “firm, and workers in a service sector firm or subdivi-
 7 sion of a service sector firm or public agency)”.

8 (b) GROUP ELIGIBILITY REQUIREMENTS.—Section
 9 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amend-
 10 ed—

11 (1) in subsection (a)—

12 (A) in the matter preceding paragraph (1),
 13 by striking “agricultural firm)” and inserting
 14 “agricultural firm, and workers in a service sec-
 15 tor firm or subdivision of a service sector firm
 16 or public agency)”;

17 (B) in paragraph (1), by inserting “or
 18 public agency” after “of the firm”; and

19 (C) in paragraph (2)—

20 (i) in subparagraph (A)(ii), by strik-
 21 ing “like or directly competitive with arti-
 22 cles produced” and inserting “or services
 23 like or directly competitive with articles
 24 produced or services provided”;

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

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

“(ii) such workers’ firm, subdivision, or public agency has obtained or is likely to obtain services described in clause (i) from a foreign country.”;

(2) in subsection (b)—

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

(B) in paragraph (2), by inserting “or service” after “related to the article”; and

(C) in paragraph (3)(A), by inserting “or services” after “component parts”;

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by inserting “or services” after “value-added production processes”;

1 (ii) by striking “or finishing” and in-
2 serting “, finishing, or testing”;

3 (iii) by inserting “or services” after
4 “for articles”;

5 (iv) by inserting “(or subdivision)”
6 after “such other firm”; and

7 (v) by striking “, if the certification”
8 and all that follows through “Mexico”; and
9 (B) in paragraph (4)—

10 (i) by striking “for articles” and in-
11 serting “, or services, for articles or serv-
12 ices”; and

13 (ii) by inserting “(or subdivision)”
14 after “such other firm”; and

15 (4) by adding at the end the following new sub-
16 section:

17 “(d) BASIS FOR SECRETARY’S DETERMINATIONS.—

18 “(1) INCREASED IMPORTS.—For purposes of
19 subsection (a)(2)(A)(ii), the Secretary may deter-
20 mine that increased imports of like or directly com-
21 petitive articles or services exist if the workers’ firm
22 or subdivision, or customers of the workers’ firm or
23 subdivision accounting for not less than 20 percent
24 of the sales of the workers’ firm or subdivision, cer-

1 tify to the Secretary that they are obtaining such ar-
2 ticles or services from a foreign country.

3 “(2) OBTAINING SERVICES ABROAD.—For pur-
4 poses of subsection (a)(2)(B)(ii), the Secretary may
5 determine that the workers’ firm, subdivision, or
6 public agency has obtained or is likely to obtain like
7 or directly competitive services from a foreign coun-
8 try based on a certification thereof from the work-
9 ers’ firm, subdivision, or public agency.

10 “(3) AUTHORITY OF THE SECRETARY.—The
11 Secretary may obtain the certifications under para-
12 graphs (1) and (2) through questionnaires or such
13 other manner as the Secretary determines is appro-
14 priate.”.

15 (c) TRAINING.—Section 236(a)(2)(A) of the Trade
16 Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by
17 striking “\$220,000,000” and inserting “\$440,000,000”.

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

20 (1) in paragraph (1)—

21 (A) by inserting “or public agency” after
22 “of a firm”; and

23 (B) by inserting “or public agency” after
24 “or subdivision”;

1 (2) in paragraph (2)(B), by inserting “or public
2 agency” after “the firm”;

3 (3) by redesignating paragraphs (8) through
4 (17) as paragraphs (9) through (18), respectively;

5 (4) by inserting after paragraph (6) the fol-
6 lowing:

7 “(7) The term ‘public agency’ means a depart-
8 ment or agency of a State or local government or of
9 the Federal Government.

10 “(8) The term ‘service sector firm’ means an
11 entity engaged in the business of providing serv-
12 ices.”.

13 (e) TECHNICAL AMENDMENT.—Section 245(a) of the
14 Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by
15 striking “, other than subchapter D”.

16 **SEC. 3. TRAINING.**

17 (a) BASIS FOR WAIVER.—Section 231(c)(1) of the
18 Trade Act of 1974 (19 U.S.C. 2291(c)(1)) is amended by
19 adding at the end the following:

20 “(G) ADVANCED DEGREE OR CERTIFI-
21 CATION.—The worker possesses a postgraduate
22 degree from an institution of higher education
23 (as defined in section 101(a) of the Higher
24 Education Act of 1965) or equivalent foreign
25 institution), or has received an equivalent post-

1 graduate certification in a specialized field, and
 2 there is a reasonable expectation of employment
 3 at equivalent wages in the foreseeable future.”.

4 (b) TRAINING PROGRAMS.—Section 236(a)(5) of the
 5 Trade Act of 1974 (19 U.S.C. 2296(a)(5)) is amended—

6 (1) by striking “and” at the end of subpara-
 7 graph (E)(ii);

8 (2) by striking the period at the end of sub-
 9 paragraph (F) and inserting “, and”; and

10 (3) by adding at the end the following:

11 “(G) continuation of enrollment at an institu-
 12 tion of higher education (as defined in section
 13 101(a) of the Higher Education Act of 1965) for the
 14 purpose of obtaining a degree, for a period of no
 15 longer than 104 weeks, if prior to total or partial
 16 separation from adversely affected employment, the
 17 worker was enrolled in such program, and there is
 18 a reasonable expectation of employment at equiva-
 19 lent wages upon completion of the program.”.

20 **SEC. 4. TRADE ADJUSTMENT ASSISTANCE FOR FIRMS AND**
 21 **INDUSTRIES.**

22 (a) FIRMS.—

23 (1) ASSISTANCE.—Section 251 of the Trade
 24 Act of 1974 (19 U.S.C. 2341) is amended—

1 (A) in subsection (a), by inserting “or
 2 service sector firm” after “(including any agri-
 3 cultural firm”;

4 (B) in subsection (c)(1)—

5 (i) in the matter preceding subpara-
 6 graph (A), by inserting “or service sector
 7 firm” after “any agricultural firm”;

8 (ii) in subparagraph (B)(ii), by insert-
 9 ing “or service” after “of an article”; and

10 (iii) in subparagraph (C), by striking
 11 “articles like or directly competitive with
 12 articles which are produced” and inserting
 13 “articles or services like or directly com-
 14 petitive with articles or services which are
 15 produced or provided”; and

16 (C) by adding at the end the following:

17 “(e) BASIS FOR SECRETARY DETERMINATION.—

18 “(1) INCREASED IMPORTS.—For purposes of
 19 subsection (c)(1)(C), the Secretary may determine
 20 that increases of imports of like or directly competi-
 21 tive articles or services exist if customers accounting
 22 for not less than 20 percent of the sales of the work-
 23 ers’ firm certify to the Secretary that they are ob-
 24 taining such articles or services from a foreign coun-
 25 try.

1 “(2) AUTHORITY OF THE SECRETARY.—The
2 Secretary may obtain the certifications under para-
3 graph (1) through questionnaires or such other man-
4 ner as the Secretary determines is appropriate. The
5 subpoena power described in section 249 shall be ex-
6 tended to the Secretary for purposes of carrying out
7 this subsection.”.

8 (2) AUTHORIZATION OF APPROPRIATIONS.—
9 Section 256(b) of the Trade Act of 1974 (19 U.S.C.
10 2346(b)) is amended—

11 (A) by striking “\$16,000,000” and insert-
12 ing “\$32,000,000”; and

13 (B) by adding at the end the following: “If
14 the amount appropriated pursuant to this sub-
15 section in any fiscal year is less than the
16 amount authorized to be appropriated by this
17 subsection, the Secretary shall consult with the
18 Committee on Ways and Means and the Com-
19 mittee on Appropriations of the House of Rep-
20 resentatives, the Committee on Finance and the
21 Committee on Appropriations of the Senate,
22 and any other committee of appropriate juris-
23 diction in Congress on allocating the amount so
24 appropriated.”.

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

3 (A) by striking “For purposes of” and in-
4 serting “(a) FIRM.—For purposes of”; and

5 (B) by adding at the end the following:

6 “(b) SERVICE SECTOR FIRM.—For purposes of this
7 chapter, the term ‘service sector firm’ means a firm en-
8 gaged in the business of providing services.”.

9 (b) INDUSTRIES.—Section 265(a) of the Trade Act
10 of 1974 (19 U.S.C. 2355(a)) is amended by inserting “or
11 service” after “new product”.

12 (c) CLERICAL AMENDMENT.—(1) Section 249 of the
13 Trade Act of 1974 (19 U.S.C. 2321) is amended—

14 (A) by amending the section heading to read as
15 follows:

16 **“SEC. 249. SUBPOENA AUTHORITY.”;**

17 and

18 (B) by striking “subpena” each place it appears
19 and inserting “subpoena”.

20 (2) The item relating to section 249 in the table of
21 contents of the Trade Act of 1974 is amended to read
22 as follows:

“249. Subpoena authority.”.

23 **SEC. 5. MONITORING AND REPORTING.**

24 Section 282 of the Trade Act of 1974 (19 U.S.C.
25 2393) is amended—

1 (1) in this first sentence—

2 (A) by striking “The Secretary” and in-
3 serting “(a) MONITORING PROGRAMS.—The
4 Secretary”;

5 (B) by inserting “and services” after “im-
6 ports of articles”;

7 (C) by inserting “and domestic provision of
8 services” after “domestic production”;

9 (D) by inserting “or providing services”
10 after “producing articles”; and

11 (E) by inserting “, or provision of serv-
12 ices,” after “changes in production”; and

13 (2) by adding at the end the following:

14 “(b) COLLECTION OF DATA AND REPORTS.—

15 “(1) SECRETARY OF LABOR.—(A) Not later
16 than 3 months after the date of the enactment of
17 the Trade Adjustment Assistance Equity Service
18 Workers Act of 2004, the Secretary of Labor shall
19 implement a system to collect data on all adversely
20 affected workers who receive adjustment assistance
21 under this chapter, including the number of workers
22 by State, industry, the cause of dislocation of each
23 worker, the adjustment assistance received by each
24 worker, and outcomes relating to employment, reten-
25 tion, and earnings.

1 “(B) Not later than 16 months after such date
 2 of enactment, the Secretary of Labor shall report to
 3 the Committee on Ways and Means of the House of
 4 Representatives, the Committee on Finance of the
 5 Senate, and any other committee of appropriate ju-
 6 risdiction, on whether changes to eligibility require-
 7 ments, benefits, or training funding should be made
 8 based on the data collected under subparagraph (A).

9 “(2) SECRETARY OF COMMERCE.—Not later
 10 than 6 months after such date of enactment, the
 11 Secretary of Commerce shall, in consultation with
 12 the Secretary of Labor, conduct a study and report
 13 to the Congress on ways to improve the timeliness
 14 and coverage of data on trade in services, including
 15 methods to identify increased imports due to the re-
 16 location of United States firms to foreign countries,
 17 and increased imports due to United States firms
 18 obtaining services from firms in foreign countries.”.

19 **SEC. 6. MODIFICATIONS RELATING TO CREDIT FOR**
 20 **HEALTH INSURANCE COSTS OF CERTAIN TAA**
 21 **AND PBGC PENSION RECIPIENTS.**

22 (a) PRESUMPTIVE STATUS AS A TAA RECIPIENT.—
 23 (1) IN GENERAL.—Subsection (c) of section 35
 24 of the Internal Revenue Code of 1986 is amended by
 25 adding at the end the following new paragraph:

1 “(5) PRESUMPTIVE STATUS AS A TAA RECIPI-
2 ENT.—

3 “(A) IN GENERAL.—The term ‘eligible in-
4 dividual’ shall include any individual who is cov-
5 ered by a petition filed with the Secretary of
6 Labor under section 221 of the Trade Act of
7 1974. This paragraph shall apply to any indi-
8 vidual only with respect to months which—

9 “(i) end after the date that such peti-
10 tion is so filed, and

11 “(ii) begin before the Secretary of
12 Labor makes a final determination with re-
13 spect to such petition.

14 “(B) EXCEPTION.—If the Secretary, after
15 consultation with the Secretary of Labor, deter-
16 mines that, at the time of the filing of such pe-
17 tition, there was not reasonable cause to believe
18 that the petition would result in a certification
19 by the Secretary of Labor, with respect to indi-
20 viduals covered by such petition—

21 “(i) subparagraph (A) shall not apply
22 to such individuals, and

23 “(ii) in the case of any such individual
24 on whose behalf a payment is made under
25 section 7527 with respect to a month de-

1 scribed in paragraph (1), the tax imposed
2 under this subtitle for the taxable year of
3 such individual which includes the date of
4 such determination shall be increased by
5 the amount of such payments.”.

6 (2) CONFORMING AMENDMENT.—Paragraph (1)
7 of section 7527(d) of such Code is amended by strik-
8 ing “or an eligible alternative TAA recipient (as de-
9 fined in section 35(c)(3))” and inserting “, an eligi-
10 ble alternative TAA recipient (as defined in section
11 35(c)(3)), or an individual who is an eligible indi-
12 vidual by reason of section 35(c)(5)”.

13 (b) 100 PERCENT CREDIT FOR FIRST MONTH OF
14 HEALTH INSURANCE COSTS.—Subsection (a) of section
15 35 of such Code is amended by inserting “(100 percent
16 in the case of the taxpayer’s first eligible coverage
17 month)” after “65 percent”.

18 (c) ADDITIONAL REQUIREMENTS FOR INDIVIDUAL
19 HEALTH INSURANCE COSTS.—

20 (1) IN GENERAL.—Subparagraph (A) of section
21 35(e)(2) of such Code is amended by striking “sub-
22 paragraphs (B) through (H) of paragraph (1)” and
23 inserting “paragraph (1) (other than subparagraphs
24 (A) and (I) thereof)”.

1 (2) RATING SYSTEM REQUIREMENT.—Subpara-
 2 graph (J) of section 35(e)(1) of such Code is amend-
 3 ed by adding at the end the following: “Such term
 4 does not include any insurance unless the premiums
 5 for such insurance are restricted based on a commu-
 6 nity rating system or rate-band system.”.

7 (d) PERIOD OF CREDITABLE COVERAGE MEASURED
 8 FROM DATE OF SEPARATION FROM EMPLOYMENT.—

9 (1) IN GENERAL.—Clause (i) of section
 10 35(e)(2)(B) of such Code is amended by striking
 11 “the date on which the individual seeks to enroll in
 12 the coverage described in subparagraphs (B)
 13 through (H) of paragraph (1)” and inserting “the
 14 end of the 30-day period described in paragraph
 15 (1)(J)”.

16 (2) SPECIAL RULE FOR ELIGIBLE PBGC PEN-
 17 SION RECIPIENTS.—

18 (A) IN GENERAL.—Subsection (e) of sec-
 19 tion 35 of such Code is amended by adding at
 20 the end the following new paragraph:

21 “(4) SPECIAL RULE FOR ELIGIBLE PBGC PEN-
 22 SION RECIPIENTS.—In the case of an eligible PBGC
 23 pension recipient (and any qualifying family member
 24 of such recipient), the term ‘qualified health insur-
 25 ance’ shall not include any coverage described in

paragraph (1) (other than subparagraphs (A) and (I) thereof) unless such recipient enrolls in such coverage during the 90-day period beginning on the later of—

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

“(B) the date of the enactment of the Trade Adjustment Assistance Equity for Service Workers Act of 2004.”.

(B) OUTREACH.—The Secretary of the Treasury shall carry out a program to notify individuals prior to their becoming eligible PBGC pension recipients (as defined in section 35 of the Internal Revenue Code of 1986) of the requirement of subsection (e)(4) of such section.

(e) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER ELIGIBLE INDIVIDUAL BECOMES MEDICARE ELIGIBLE.—Subsection (g) of section 35 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

“(9) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER ELIGIBLE INDIVIDUAL BECOMES MEDICARE ELIGIBLE.—In the case of a month which would be an eligible coverage month with respect to

1 an eligible individual but for subsection (f)(2)(A),
 2 such month shall be treated as an eligible coverage
 3 month with respect to any qualifying family member
 4 of such eligible individual (but not with respect to
 5 such eligible individual).”.

6 (f) OFFERING OF FEDERAL FALLBACK COVERAGE IN
 7 STATES NOT OFFERING STATE QUALIFIED HEALTH IN-
 8 SURANCE.—

9 (1) PROVISION OF FALLBACK COVERAGE.—

10 (A) IN GENERAL.—The Director of the Of-
 11 fice of Personnel Management jointly with the
 12 Secretary of the Treasury shall establish a pro-
 13 gram under which individuals described in sub-
 14 paragraph (B) are offered enrollment under
 15 health benefit plans that are made available
 16 under FEHBP.

17 (B) INDIVIDUALS DESCRIBED.—For pur-
 18 poses of subparagraph (A), individuals de-
 19 scribed in this subparagraph are eligible indi-
 20 viduals (as defined in subsection (c)(1) of sec-
 21 tion 35 of the Internal Revenue Code of 1986)
 22 who reside in a State in which any qualified
 23 health insurance described in subparagraphs
 24 (B) through (I) of subsection (e)(1) of such sec-
 25 tion is not offered.

1 (2) TERMS AND CONDITIONS.—The terms and
2 conditions of health benefits plans under paragraph
3 (1) shall be the same as the terms and coverage of-
4 fered under FEHBP, except that the premium
5 charged for such health benefit plans offered under
6 such paragraph shall be equal to the full premium
7 (including both employer and beneficiary share)
8 charged for such coverage for full-time employees
9 under FEHBP.

10 (3) STUDY.—The Director of the Office of Per-
11 sonnel Management jointly with the Secretary of the
12 Treasury shall conduct a study of the impact of the
13 offering of health benefit plans under this subsection
14 on the terms and conditions, including premiums,
15 for health benefit plans offered under FEHBP and
16 shall submit to Congress, not later than 2 years
17 after the date of the enactment of this Act, a report
18 on such study. Such report may contain such rec-
19 ommendations regarding the establishment of sepa-
20 rate risk pools for individuals covered under
21 FEHBP and eligible individuals covered this sub-
22 section as may be appropriate to protect the inter-
23 ests of individuals covered under FEHBP.

24 (4) FEHBP DEFINED.—For purposes of this
25 subsection, the term “FEHBP” means the Federal

1 Employees Health Benefits Program offered under
2 chapter 89 of title 5, United States Code.

3 (5) CONFORMING AMENDMENT.—Paragraph (1)
4 of section 35(e) of the Internal Revenue Code of
5 1986 is amended by adding at the end the following:

6 “(K) Coverage under a health benefits plan
7 offered under section 6(e) of the Trade Adjust-
8 ment Assistance Equity for Service Workers
9 Act of 2004.”.

10 (g) REPORT TO CONGRESS.—Not later than 18
11 months after the date of the enactment of this Act, the
12 Secretary of the Treasury shall transmit to the Congress
13 a report which includes the recommendations of the Sec-
14 retary regarding increasing the number eligible individuals
15 who are covered by qualified health insurance, including
16 increasing such number by increasing the credit subsidy
17 under section 35 of the Internal Revenue Code of 1986
18 to make the premiums for such insurance more affordable.
19 Terms used in this subsection which are defined in such
20 section shall have the meaning given such terms by such
21 section.

22 (h) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to months beginning after the date

1 of the enactment of this Act in taxable years ending after
2 such date.

○